

**Voluntary Disclosure of the WIFIA (Water Infrastructure Finance and Innovation Act) Loan Agreement for the Pure Water San Diego Program Phase I North City Project
(Direct Loan to the Water System)**

On November 14, 2018, the WIFIA Loan Agreement was executed by and between the United States Environmental Protection Agency (the “EPA”) and the City of San Diego (the “City”) for the City’s Water System. The WIFIA loan provides funding for up to \$614 million of the City’s Water System portion of the Pure Water San Diego Program Phase I North City Project. The loan is structured as a construction drawdown facility with a single fixed interest rate of 3.36% and a 35-year repayment term from substantial completion of the project.

Related financing documents, also executed on November 14, 2018, include the First Amendment to the Amended and Restated Master Installment Payment Agreement dated as of January 1, 2009 (the “First Amendment”), and the Collateral Agency, Account, and Assignment Agreement (the “Collateral Agency Agreement”).

The City is not required, pursuant to any continuing disclosure undertaking, to file this information and makes no commitment to update this information. No representation is made as to whether this information is material or important with respect to any particular outstanding debt issue of the City or whether other events have occurred with respect to the City or its outstanding debt that might be material or important to owners of the City’s outstanding debt.

The WIFIA Loan Agreement, Collateral Agency Agreement, and the First Amendment are provided with this filing.

Loan Name	Date of Execution	Maturity	Original Amount
WIFIA Loan Agreement between United States Environmental Protection Agency and City of San Diego	11/14/2018	2057	\$614,000,000

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA LOAN AGREEMENT

For Up to \$614,000,000

With

CITY OF SAN DIEGO

For the

**WATER SYSTEM PORTION OF
PURE WATER SAN DIEGO PROGRAM
PHASE I NORTH CITY PROJECT**

(WIFIA – N17125CA)

Dated as of November 14, 2018

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WIFIA LOAN AGREEMENT

THIS WIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of November 14, 2018, is by and between **CITY OF SAN DIEGO**, a municipal corporation organized and existing under a charter duly adopted pursuant to the provisions of the Constitution of the State of California (the “**State**”) (the “**Borrower**”), and the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “**Administrator**”), with an address at 1200 Pennsylvania Avenue NW, Washington DC 20460 (the “**WIFIA Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America enacted the Water Infrastructure Finance and Innovation Act, as amended by Section 1445 of the Fixing America’s Surface Transportation Act of 2015, as further amended by Section 5008 of the Water Infrastructure Improvements For the Nation Act of 2016 (collectively, as the same may be amended from time to time, the “**Act**” or “**WIFIA**”), which is codified as 33 U.S.C. §§ 3901-3914; and

WHEREAS, the Act authorizes the WIFIA Lender to enter into agreements to provide financial assistance with one or more eligible entities to make secured loans with appropriate security features to finance a portion of the eligible costs of projects eligible for assistance; and

WHEREAS, the Borrower has requested that the WIFIA Lender make the WIFIA Loan (as defined herein) in a principal amount not to exceed \$614,000,000 to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for WIFIA financial assistance dated March 16, 2018 (the “**Application**”); and

WHEREAS, as of the date hereof, the Administrator has approved WIFIA financial assistance for the Project to be provided in the form of the WIFIA Loan, subject to the terms and conditions contained herein; and

WHEREAS, based on the Application and the representations, warranties and covenants set forth herein, the WIFIA Lender proposes to make funding available to the Borrower through the purchase of the WIFIA Note (as defined herein), upon the terms and conditions set forth herein; and

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the WIFIA Note in accordance with the terms and provisions hereof and of the WIFIA Note; and

WHEREAS, the WIFIA Lender has entered into this Agreement in reliance upon, among other things, the information and representations of the Borrower set forth in the Application and the supporting information provided by the Borrower.

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the WIFIA Lender as follows:

Section 1. Definitions.

Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 or as otherwise defined in this Agreement. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement, whether or not such agreement remains in effect.

“Acceptable Credit Rating” means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues a Qualified Hedge, ‘A+’, ‘A1’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable; and (b) at any time thereafter, ‘A’, ‘A2’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable.

“Act” means the Act as defined in the recitals hereto.

“Additional Junior Obligations” means any Junior Obligations permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under the MIPA, which Junior Obligations are issued or incurred on or after the Effective Date.

“Additional Obligations” means Additional Parity Obligations, Additional Subordinated Obligations and Additional Junior Obligations.

“Additional Parity Obligations” means any Parity Obligations permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under the MIPA, which Parity Obligations are issued or incurred on or after the Effective Date.

“Additional Principal Project Contract” means (a) any contract, agreement, letter of intent, understanding or instrument listed in Part B of **Schedule 12(n)** (*Principal Project Contracts*) and (b) any other contract, agreement, letter of intent, understanding or instrument entered into by (or on behalf of) the Borrower after the Effective Date with respect to the Project, in the case of this clause (b), (i) pursuant to which the Borrower has payment obligations in excess of \$10,000,000 in the aggregate or (ii) the termination of which could reasonably be expected to have a Material Adverse Effect, but excluding, in the case of this clause (b), any (A) insurance policies, (B) Governmental Approvals and (C) agreements, documents and instruments (1) providing for, governing or evidencing any Permitted Debt and any related Permitted Lien for such Permitted Debt or (2) entered into to consummate any Permitted Investment.

“Additional Subordinated Obligations” means any Subordinated Obligations permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under the MIPA, which Subordinated Obligations are issued or incurred on or after the Effective Date.

“Adjusted Debt Service” means, for any Borrower Fiscal Year, Debt Service on Parity Obligations for such Borrower Fiscal Year, minus an amount equal to earnings from investments in any Reserve Fund securing Parity Obligations for such Borrower Fiscal Year.

“Adjusted Net System Revenues” means, for any Borrower Fiscal Year, the Net System Revenues for such Borrower Fiscal Year, minus an amount equal to earnings from investments in any Reserve Fund securing Parity Obligations for such Borrower Fiscal Year.

“Administrator” has the meaning provided in the preamble hereto.

“Agreement” has the meaning provided in the preamble hereto.

“Anticipated WIFIA Loan Disbursement Schedule” means the schedule set forth in **Exhibit B** (*Anticipated WIFIA Loan Disbursement Schedule*), reflecting the anticipated disbursement of proceeds of the WIFIA Loan, as such schedule may be amended from time to time pursuant to Section 4(c) (*Disbursement Conditions*).

“Application” has the meaning provided in the recitals hereto.

“Authorized City Representative” means the Chief Financial Officer of the Borrower or such other officer or employee of the Borrower or other person who has been designated in writing as such representative by the Chief Financial Officer.

“Authorizing Ordinance” means the ordinance pursuant to which the MIPA was authorized and any additional ordinance or official authorizing act of the City Council approving execution and delivery of any Supplement or any Issuing Instrument.

“Balloon Indebtedness” means, with respect to any series of Obligations, twenty-five percent (25%) or more of the principal of which matures on the same date or within a twelve (12)-month period (with sinking fund payments on Term Obligations deemed to be payments of matured principal), that portion of such series of Obligations which matures on such date or within such twelve (12)-month period; provided that to constitute Balloon Indebtedness the amount of indebtedness maturing on a single date or over a twelve (12)-month period must equal or exceed one hundred fifty percent (150%) of the amount of such series of Obligations which matures during any preceding twelve (12)-month period. For purposes of this definition, the principal amount maturing on any date shall be reduced by the amount of such indebtedness which is required, by the documents governing such indebtedness, to be amortized by prepayment or redemption prior to its stated maturity date.

“Bank Secrecy Act” means the Bank Secrecy Act of 1970, as amended, and the regulations promulgated thereunder.

“Bankruptcy Related Event” means, with respect to any Person, (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation,

reorganization or other relief in respect of such Person or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for such Person or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; (b) such Person shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) solely with respect to the Borrower, fail to make a payment of WIFIA Debt Service in accordance with the provisions of Section 9 (*Payment of Principal and Interest*) and such failure is not cured within thirty (30) days following notification by the WIFIA Lender of failure to make such payment, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief, in each case under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (v), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing; (c) solely with respect to the Borrower, (i) the Collateral Agent shall commence a process pursuant to which all or a substantial part of the Collateral may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the Parity Obligations, or (ii) the Collateral Agent shall commence a process pursuant to which all or a substantial part of the Collateral may be sold or otherwise disposed of pursuant to a sale or disposition of such Collateral in lieu of foreclosure; or (d) solely with respect to the Borrower, upon the occurrence and during the continuation of an Event of Default under the MIPA, the Collateral Agent shall apply Net System Revenues received following the acceleration of any Obligations to the prepayment or repayment of any Parity Obligations.

“Base Case Financial Model” means a financial model prepared by the Borrower forecasting the capital costs of the Water System (including the Project) and the rates, revenues, operating expenses and major maintenance requirements of the Water System for time periods through the Final Maturity Date and based upon assumptions and methodology provided by the Borrower and acceptable to the WIFIA Lender as of the Effective Date, which model shall be provided to the WIFIA Lender as a fully functional Microsoft Excel-based financial model.

“Borrower” has the meaning provided in the preamble hereto.

“Borrower Fiscal Year” means (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1 of any calendar year and ending on June 30 of such year or (b) such other fiscal year as the Borrower may hereafter adopt.

“Borrower’s Authorized Representative” means any Person who shall be designated as such pursuant to Section 26 (*Borrower’s Authorized Representative*).

“**Business Day**” means any day other than a Saturday, a Sunday or a day on which offices of the Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York or San Diego, California.

“**Business Interruption Insurance**” means any policy of insurance insuring against loss of revenues upon the occurrence of certain casualties or events covered by such policy of insurance.

“**Business Interruption Insurance Loss Proceeds**” means any proceeds of Business Interruption Insurance resulting from any Event of Loss.

“**Charter**” means the Charter of the Borrower as it now exists or may hereafter be amended, and any new or successor Charter.

“**City Council**” means the San Diego City Council.

“**Collateral**” means all of the interests of the Borrower in (a) the Net System Revenues and (b) each as defined in the Collateral Agency Agreement, the Funds, the Accounts and any subaccounts (other than the Parity Obligations Reserve Account and the Subordinated Obligations Reserve Account (as such terms are defined in the Collateral Agency Agreement)) including all amounts on deposit therein or credited thereto.

“**Collateral Agency Agreement**” means the Collateral Agency, Account and Assignment Agreement dated as of November 14, 2018 among, among others, the Borrower, the Corporation, the Public Facilities Financing Authority of the City of San Diego, the WIFIA Lender, the Trustee and the Collateral Agent.

“**Collateral Agent**” means U.S. Bank, National Association, a national banking association organized under the laws of the United States, as Collateral Agent under the Collateral Agency Agreement.

“**Construction Period**” means the Effective Date through the Substantial Completion Date.

“**Construction Period Servicing Fee**” has the meaning set forth in Section 29(b) (*Fees and Expenses – Construction Period Servicing Fee*).

“**Construction Schedule**” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached as **Schedule II** (*Construction Schedule*), and (b) any updates thereto included in the periodic reports submitted to the WIFIA Lender pursuant to Section 22(b) (*Project Oversight and Monitoring – Reporting*) and Section 21(a) (*System Financial Planning and Reporting – Updated Financial Model*) most recently approved by the WIFIA Lender.

“**Consultant**” means the consultant, consulting firm, engineer, architect, engineering firm, architectural firm, accountant or accounting firm retained by the Borrower to perform acts or carry out the duties provided for such consultant in the MIPA. Such consultant, consulting

firm, engineer, architect, engineering firm or architectural firm shall be nationally recognized within its profession for work of the character required. Such accountants or accounting firm shall be independent certified public accountants licensed to practice in the State.

“Control” means, when used with respect to any particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership or other ownership interests, by contract or otherwise, and the terms **“Controlling”** and **“Controlled by”** have meanings correlative to the foregoing.

“Cooperative Agreement” means that certain Cooperative Agreement in Support of Pure Water San Diego, dated as of December 9, 2014, by and among San Diego Coastkeeper, the San Diego Chapter of Surfrider Foundation, the Coastal Environmental Rights Foundation, the San Diego Audubon Society and the Borrower.

“Corporation” means the San Diego Facilities and Equipment Leasing Corporation.

“CPI” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted) or its successor, published by the Bureau of Labor Statistics and located at <https://www.bls.gov/news.release/cpi.t01.htm>.

“Credit Provider” means any municipal bond insurance company, bank or other financial institution or organization which is performing in all material respects its obligations under any Credit Support Instrument for some or all of the Parity Obligations.

“Credit Provider Reimbursement Obligations” means obligations of the Borrower to repay, from Net System Revenues, amounts advanced by a Credit Provider as credit support or liquidity for Parity Obligations, which obligations shall constitute Parity Obligations, Subordinated Obligations or Junior Obligations.

“Credit Support Instrument” means a policy of insurance, a letter of credit, a standby purchase agreement, revolving credit agreement or other credit arrangement pursuant to which a Credit Provider provides credit support or liquidity with respect to the payment of interest, principal or the purchase price of any Parity Obligations.

“Debt Service” means:

(I) with regard to the issuance of Parity Obligations, for any Borrower Fiscal Year, the sum of (a) the interest payable during such Borrower Fiscal Year on all Outstanding Parity Obligations, assuming that all Outstanding Serial Parity Obligations (as defined in the MIPA) are retired as scheduled and that all Outstanding Term Parity Obligations (as defined in the MIPA) are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is to be paid from the proceeds of sale of any Parity Obligations), (b) that portion of the principal amount of all Outstanding Serial Parity Obligations maturing on the next succeeding principal payment date which falls in such Borrower Fiscal Year (excluding Serial Obligations (as defined in the MIPA) which at the time of issuance are intended to be paid from the sale of a corresponding amount of Parity Obligations), (c) that portion of the principal amount of all Outstanding Term Parity Obligations required to be redeemed or paid on any redemption date

which falls in such Borrower Fiscal Year (together with the redemption premiums, if any, thereon); provided that, (1) as to any Balloon Indebtedness, Tender Indebtedness and Variable Rate Indebtedness, interest thereon shall be calculated as provided in the definition of Maximum Annual Debt Service and principal shall be deemed due at the nominal maturity dates thereof; (2) the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Parity Obligations for which such debt service reserve fund was established and in each preceding year until such amount is exhausted; and (3) the amount of payments on account of Parity Obligations which are redeemed, retired or repaid on the basis of the accreted value due on the scheduled redemption, retirement or repayment date shall be deemed principal payments, and interest that is compounded and paid as part of the accreted value shall be deemed payable on the scheduled redemption, retirement or repayment date, but not before; and

(II) with regard to the issuance of Subordinated Obligations, for any Borrower Fiscal Year, the sum of (a) the interest payable during such Borrower Fiscal Year on all Outstanding Obligations, assuming that all Outstanding Serial Obligations (as defined in the MIPA) are retired as scheduled and that all Outstanding Term Obligations (as defined in the MIPA) are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is to be paid from the proceeds of sale of any Obligations), (b) that portion of the principal amount of all Outstanding Serial Obligations maturing on the next succeeding principal payment date which falls in such Borrower Fiscal Year (excluding Serial Obligations which at the time of issuance are intended to be paid from the sale of a corresponding amount of other Obligations) (c) that portion of the principal amount of all Outstanding Term Obligations required to be redeemed or paid on any redemption date which falls in such Borrower Fiscal Year (together with the redemption premiums, if any, thereon) provided that, (1) as to any Balloon Indebtedness, Tender Indebtedness and Variable Rate Indebtedness, interest thereon shall be calculated as provided in the definition of Maximum Annual Debt Service and principal shall be deemed due at the nominal maturity dates thereof; (2) the amount on deposit in a Reserve Fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Obligations for which such Reserve Fund was established and in each preceding year, until such amount is exhausted; and (3) the amount of payments on account of Obligations which are redeemed, retired or repaid on the basis of the accreted value due on the scheduled redemption, retirement or repayment date shall be deemed principal payments, and interest that is compounded and paid as part of the accreted value thereof shall be deemed payable on the scheduled redemption, retirement or repayment date, but not before.

“Default” means any event or condition that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means an interest rate equal to the sum of (a) the WIFIA Interest Rate plus (b) two hundred (200) basis points.

“Development Default” means (a) the Borrower abandons work or fails, in the reasonable judgment of the WIFIA Lender, to diligently prosecute the work related to the Project or (b) the Borrower fails to achieve Substantial Completion of the Project within twenty-four

(24) months following the Projected Substantial Completion Date, unless in each case delayed due to Uncontrollable Force.

“**Dollars**” and “\$” means the lawful currency of the United States of America.

“**Effective Date**” means the date of this Agreement.

“**Eligible Project Costs**” means amounts in the Project Budget approved by the WIFIA Lender, which are paid by or for the account of the Borrower in connection with the Project (including, as applicable, Project expenditures incurred prior to the receipt of WIFIA credit assistance), which shall arise from the following:

(a) development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work and other preconstruction activities;

(b) construction, reconstruction, rehabilitation, and replacement activities;

(c) the acquisition of real property or an interest in real property (including water rights, land relating to the Project and improvements to land), environmental mitigation (including acquisitions pursuant to Section 3905(8) of Title 33 of the United States Code), construction contingencies, and acquisition of equipment; or

(d) capitalized interest (with respect to Obligations other than the WIFIA Loan) necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction;

provided that Eligible Project Costs must be consistent with all other applicable federal law, including the Act.

“**EMMA**” means the Electronic Municipal Market Access system as described in 1934 Act Release No. 59062 and maintained by the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)1 of the Securities Exchange Act of 1934, as amended, and its successors.

“**Engineer’s Report**” means a report signed by an Independent Engineer.

“**Environmental Laws**” has the meaning provided in Section 12(r) (*Representations and Warranties of Borrower – Environmental Matters*).

“**EPA**” means the United States Environmental Protection Agency.

“**Event of Default**” means a System Event of Default or a Project Event of Default.

“**Event of Loss**” means any event or series of events that causes any portion of the Project to be damaged, destroyed or rendered unfit for normal use for any reason whatsoever,

including through a casualty, a failure of title, or any loss of such property through eminent domain.

“**Existing Indebtedness**” means the indebtedness of the Borrower that has been issued or incurred prior to the Effective Date and is listed and described in **Schedule III** (*Existing Indebtedness*).

“**Existing Principal Project Contract**” means each contract of the Borrower set forth in Part A of **Schedule 12(n)** (*Principal Project Contracts*).

“**Federal Fiscal Year**” or “**FFY**” means the fiscal year of the Government, which is the twelve (12) month period that ends on September 30 of the specified calendar year and begins on October 1 of the preceding calendar year.

“**Final Disbursement Date**” means the earliest of (a) the date on which the WIFIA Loan has been disbursed in full; (b) the date on which the Borrower has certified to the WIFIA Lender that it will not request any further disbursements under the WIFIA Loan; (c) the date on which the WIFIA Lender terminates its obligations relating to disbursements of any undisbursed amounts of the WIFIA Loan in accordance with Section 18 (*System Events of Default and Remedies*) or Section 19 (*Project Events of Default and Remedies*); (d) the date that is one (1) year after the Substantial Completion Date; and (e) the last anticipated date of disbursement set forth in the Anticipated WIFIA Loan Disbursement Schedule.

“**Final Maturity Date**” means (a) August 1, 2057 or (b) such later date on or prior to August 1, 2058 elected by the Borrower pursuant to Section 9(e)(ii) (*Payment of Principal and Interest – Final Maturity Date*); provided that the Final Maturity Date shall be no later than the date that is thirty-five (35) years following the Substantial Completion Date.

“**Final Maturity Date Extension Notice**” has the meaning provided in Section 9(e)(ii) (*Payment of Principal and Interest – Final Maturity Date*).

“**Financial Statements**” has the meaning provided in Section 12(u) (*Representations and Warranties of Borrower – Financial Statements*).

“**GAAP**” means generally accepted accounting principles for governmental entities, as established by GASB, in effect from time to time in the United States of America.

“**GASB**” means the Government Accounting Standards Board, or any successor entity with responsibility for establishing accounting rules for governmental entities.

“**Government**” means the United States of America and its departments and agencies.

“**Governmental Approvals**” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority.

“**Governmental Authority**” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court,

board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“Hedging Agreement” means (a) the ISDA Master Agreement(s) and any related credit support annex, schedules and confirmations, to be entered into by the Borrower and a Hedging Bank, (b) any other agreement entered into, or to be entered into, by the Borrower and a Hedging Bank for a Hedging Transaction, and (c) any other documentation directly relating to the foregoing.

“Hedging Bank” means any Qualified Hedge Provider that becomes a party to a Hedging Agreement and its permitted successors (to the extent such successors are also Qualified Hedge Providers).

“Hedging Obligations” means, collectively, the payment of (a) all scheduled amounts payable to the Hedging Banks by the Borrower under the Hedging Agreements (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), net of all scheduled amounts payable to the Borrower by such Hedging Banks, and (b) all other indebtedness, fees, indemnities and other amounts payable by the Borrower to the Hedging Banks under such Hedging Agreements, net of all other indebtedness, fees, indemnities and other amounts payable by the Hedging Banks to the Borrower under such Hedging Agreements; provided that Hedging Obligations shall not include Hedging Termination Obligations. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Termination Obligations” means the aggregate amount payable to the Hedging Banks by the Borrower upon the early termination of all or a portion of the Hedging Agreements, net of all amounts payable to the Borrower by such Hedging Banks upon such early termination. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Transaction” means any interest rate protection agreement, interest rate swap transaction, interest rate “cap” transaction, interest rate future, interest rate option or other similar interest rate hedging arrangement commonly used in loan transactions to hedge against interest rate increases; provided that in no event shall any such transaction be for any speculative purpose.

“Indemnitee” has the meaning provided in Section 16 (*Indemnification*).

“Independent Certified Public Accountant” means any firm of certified public accountants appointed by the Borrower, and each of whom is independent pursuant to the

Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

“Independent Engineer” means any registered engineer or firm of registered engineers of national reputation generally recognized to be well qualified in engineering matters relating to water systems, appointed and paid by but not under the control of the Borrower.

“Insolvency Laws” means the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership, conservatorship or similar law now or hereafter in effect.

“Installment Payments” means the Installment Payments scheduled to be paid by the Borrower under and pursuant the MIPA and any Supplement.

“Interest Payment Date” means each February 1 and August 1.

“Interim Financing” means interim bond anticipation notes, commercial paper or other short-term temporary financing.

“Interim Payment Date” means any date that (a) is a date on which interest on or principal of Subordinated Obligations is scheduled to be paid and (b) is not a Semi-Annual Payment Date.

“Investment Grade Rating” means a public rating no lower than ‘BBB-’, ‘Baa3’, ‘bbb-’, ‘BBB (low)’, or higher, from a Nationally Recognized Rating Agency.

“Issuing Instrument” means any indenture, trust agreement, loan agreement, lease, installment purchase agreement (including the MIPA), any Supplement or other instrument under which Obligations are issued or created.

“Junior Obligations” means Obligations having a lower Lien priority than Parity Obligations and Subordinated Obligations.

“Lien” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or any other applicable law.

“Loan Amortization Schedule” means the Loan Amortization Schedule reflected in the applicable column of **Exhibit F-1** (*WIFIA Debt Service*), as amended from time to time in accordance with Section 7 (*Outstanding WIFIA Loan Balance; Revisions to Exhibit F-1 and Loan Amortization Schedule*).

“Loss Proceeds” means any proceeds of builders’ risk or casualty insurance (other than Business Interruption Insurance Loss Proceeds) or proceeds of eminent domain proceedings resulting from any Event of Loss.

“Maintenance and Operation Costs of the Water System” means (a) any obligation of the Borrower to make use of any facility, property or services, or some portion of the capacity thereof, or to pay therefor from System Revenues, or both, whether or not such facilities, properties or services are ever made available to the Borrower for use, and there is provided to the Borrower a certificate of the Borrower or of an Independent Engineer to the effect that the incurrence of such obligation will not adversely affect the ability of the Borrower to comply with the Rate Covenant, and (b) the reasonable and necessary costs spent or incurred by the Borrower for maintaining and operating the Water System, calculated in accordance with generally accepted accounting principles, including, without limitation, the costs of the purchase, delivery or storage of water, the reasonable expenses of maintenance and repair and other expenses necessary to maintain and preserve the Water System in good repair and working order, and including administrative costs of the Borrower attributable to the Water System and the MIPA, salaries and wages of employees of the Water System, payments to such employees’ retirement systems (to the extent paid from System Revenues), overhead, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of Borrower or charges required to be paid by it to comply with the terms of the Obligations, including any amounts required to be deposited in the Rebate Fund (as defined in the MIPA) pursuant to a certificate delivered with respect to the maintenance of the tax-exempt status of Obligations consisting of or which are supported in whole by Installment Payments, the interest component of which is excluded from gross income pursuant to Section 103 of the Internal Revenue Code, and fees and expenses payable to any Credit Provider (other than in repayment of a Credit Provider Reimbursement Obligation), but excluding in all cases (1) depreciation, replacement and obsolescence charges or reserves therefor, (2) amortization of intangibles or other bookkeeping entries of a similar nature, (3) costs of capital additions, replacements, betterments, extensions or improvements to the Water System which under generally accepted accounting principles are chargeable to a capital account or to a reserve for depreciation, (4) charges for the payment of principal of and interest on any general obligation bond heretofore or hereafter issued for Water System purposes, and (5) charges for the payment of principal of and interest on any debt service on account of any Obligation on a parity with or subordinate to the Installment Payments. For the avoidance of doubt, Maintenance and Operating Costs of the Water System shall include the fees, costs, expenses and indemnities owed to Owners (including the WIFIA Lender) and any official, employee, agent, representative or trustee thereof.

“Material Adverse Effect” means a material adverse effect on (a) the Water System, the Project or the System Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Water System, (c) the legality, validity or enforceability of any material provision of any MIPA Document or WIFIA Loan Document, (d) the ability of the Borrower to enter into, perform or comply with any of its material obligations under any MIPA Document or WIFIA Loan Document, (e) the validity, enforceability or priority of the Liens provided under the MIPA Documents on the Collateral in favor of the Secured Parties or (f) the WIFIA Lender’s rights or remedies available under any WIFIA Loan Document.

“Maximum Annual Debt Service” means:

(A) with respect to Parity Obligations then Outstanding, the maximum amount of principal and interest becoming due on the Parity Obligations in the then-current or any future Borrower Fiscal Year, calculated by the Borrower or by an Independent Certified Public Accountant in accordance with this subsection and provided to the Trustee and the WIFIA Lender. For purposes of calculating Maximum Annual Debt Service, the following assumptions shall be used to calculate the principal and interest becoming due in any Borrower Fiscal Year:

(i) in determining the principal amount due in each Borrower Fiscal Year, payments shall (except to the extent a different subsection of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made in accordance with any amortization schedule established for such debt, including the amount of any Parity Obligations which are or have the characteristics of commercial paper and which are not intended at the time of issuance to be retired from the sale of a corresponding amount of Parity Obligations, and including any scheduled mandatory redemption or prepayment of Parity Obligations on the basis of accreted value due upon such redemption or prepayment, and for such purpose, the redemption payment or prepayment shall be deemed a principal payment; provided that with respect to Parity Obligations which are or have the characteristics of commercial paper and which are intended at the time of issuance to be retired from the sale of a corresponding amount of other Obligations, which other Obligations would not constitute Balloon Indebtedness, each maturity thereof shall be treated as if it were to be amortized in substantially equal installments of principal and interest over a term of thirty (30) years, commencing in the year of such stated maturity; in determining the interest due in each Borrower Fiscal Year, interest payable at a fixed rate shall (except to the extent subsection (A)(ii) or (iii) of this definition applies) be assumed to be made at such fixed rate and on the required payment dates;

(ii) if all or any portion or portions of an Outstanding series of Parity Obligations constitute Balloon Indebtedness or if all or any portion or portions of a series of Parity Obligations or such payments then proposed to be issued would constitute Balloon Indebtedness, then, for purposes of determining Maximum Annual Debt Service, each maturity which constitutes Balloon Indebtedness shall be treated as if it were to be amortized in substantially equal annual installments of principal and interest over a term of thirty (30) years, commencing in the year the stated maturity of such Balloon Indebtedness occurs, the interest rate used for such computation shall be determined as provided in subsection (A)(iv) or (v) below, as appropriate, and all payments of principal and interest becoming due prior to the year of the stated maturity of the Balloon Indebtedness shall be treated as described in subsection (A)(i) above;

(iii) if any Outstanding series of Parity Obligations constitutes Tender Indebtedness or if Parity Obligations proposed to be issued would constitute Tender Indebtedness, then for purposes of determining Maximum Annual Debt Service, Tender Indebtedness shall be treated as if the principal amount of such Parity Obligations were to be amortized in accordance with the amortization schedule set forth in the Supplement or Issuing Instrument for such Tender Indebtedness or in the standby purchase or liquidity facility established with respect to such Tender Indebtedness, or if no such amortization schedule is set forth, then such Tender Indebtedness shall be deemed to be amortized in substantially equal annual installments of

principal and interest over a term of thirty (30) years commencing in the year in which such series is first subject to tender, the interest rate used for such computation shall be determined as provided in subsection (A)(iv) or (v) below, as appropriate;

(iv) if any Outstanding series of Parity Obligations constitutes Variable Rate Indebtedness, the interest rate on such Obligations shall be assumed to be one hundred ten percent (110%) of the daily average interest rate on such Parity Obligations during the twelve (12) months ending with the month preceding the date of calculation, or such shorter period that such Parity Obligations shall have been Outstanding;

(v) if Parity Obligations proposed to be issued will be Variable Rate Indebtedness, then such Parity Obligations shall be assumed to bear interest at eighty percent (80%) of the average Bond Buyer Revenue Bond Index during the calendar quarter preceding the calendar quarter in which the calculation is made, or if that index is no longer published, another similar index selected by the Borrower, or if the Borrower fails to select a replacement index, an interest rate equal to eighty percent (80%) of the yield for outstanding United States Treasury bonds having an equivalent maturity, or if there are no such Treasury bonds having such maturities, one hundred percent (100%) of the lowest prevailing prime rate of any of the five largest commercial banks in the United States ranked by assets; and

(vi) if moneys or Permitted Investments have been deposited by the Borrower into a separate fund or account or are otherwise held by the Borrower or by a fiduciary to be used to pay principal of and/or interest on specified Parity Obligations, then the principal and/or interest to be paid from such moneys, Permitted Investments or from the earnings thereon shall be disregarded and not included in calculating Maximum Annual Debt Service.

(B) with regard to all Obligations then Outstanding, the maximum amount of principal and interest becoming due on the Obligations in the then-current or any future Borrower Fiscal Year, calculated by the Borrower or by an Independent Certified Public Accountant in accordance with this subsection and provided to the Trustee and the WIFIA Lender. For purposes of calculating Maximum Annual Debt Service, the following assumptions shall be used to calculate the principal and interest becoming due in any Borrower Fiscal Year:

(i) in determining the principal amount due in each Borrower Fiscal Year, payments shall (except to the extent a different subsection of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made in accordance with any amortization schedule established for such debt, including the amount of any Obligations which are or have the characteristics of commercial paper and which are not intended at the time of issuance -to be retired from the sale of a corresponding amount of Obligations, and including any scheduled mandatory redemption or prepayment of Obligations on the basis of accreted value due upon such redemption or prepayment, and for such purpose, the redemption payment or prepayment shall be deemed a principal payment; provided that with respect to Obligations which are or have the characteristics of commercial paper and which are intended at the time of issuance to be retired from the proceeds of sale of a corresponding amount of other Obligations, and which would not constitute Balloon Indebtedness, each maturity thereof shall be treated as if it were to be amortized in substantially equal installments of principal and interest over a term of thirty (30) years, commencing in the year of such stated maturity; in determining the interest due in

each Borrower Fiscal Year, interest payable at a fixed rate shall (except to the extent subsection (B)(ii) or (iii) of this definition applies) be assumed to be made at such fixed rate and on the required payment dates;

(ii) if all or any portion or portions of an Outstanding series of Obligations constitute Balloon Indebtedness or if all or any portion or portions of a series of Obligations or such payments then proposed to be issued would constitute Balloon Indebtedness, then, for purposes of determining Maximum Annual Debt Service, each maturity which constitutes Balloon Indebtedness shall be treated as if it were to be amortized in substantially equal annual installments of principal and interest over a term of thirty (30) years, commencing in the year the stated maturity of such Balloon Indebtedness occurs, the interest rate used for such computation shall be determined as provided in subsection (B)(iv) or (v) below, as appropriate, and all payments of principal and interest becoming due prior to the year of the stated maturity of the Balloon Indebtedness shall be treated as described in subsection (B)(i) above;

(iii) If any Outstanding series of Obligations constitutes Tender Indebtedness or if Obligations proposed to be issued would constitute Tender Indebtedness, then for purposes of determining Maximum Annual Debt Service, Tender Indebtedness shall be treated as if the principal amount of such Obligations were to be amortized in accordance with the amortization schedule set forth in the Supplement or Issuing Instrument for such Tender Indebtedness or in the standby purchase or liquidity facility established with respect to such Tender Indebtedness, or if no such amortization schedule is set forth, then such Tender Indebtedness shall be deemed to be amortized in substantially equal annual installments of principal and interest over a term of thirty (30) years, commencing in the year in which such Obligations are first subject to tender, the interest rate used for such computation shall be determined as provided in subsection (B)(iv) or (v) below, as appropriate;

(iv) if any Outstanding series of Obligations constitute Variable Rate Indebtedness, the interest rate on such series of Obligations shall be assumed to be one hundred ten percent (110%) of the daily average interest rate on such series of Obligations during the twelve (12) months ending with the month preceding the date of calculation, or such shorter period that such series of Obligations shall have been Outstanding;

(v) if Obligations proposed to be issued will be Variable Rate Indebtedness, then such Obligations shall be assumed to bear interest at eighty percent (80%) of the average Bond Buyer Revenue Bond Index during the calendar quarter preceding the calendar quarter in which the calculation is made, or if that index is no longer published, another similar index selected by the Borrower, or if the Borrower fails to select a replacement index, an interest rate equal to eighty percent (80%) of the yield for outstanding United States Treasury bonds having an equivalent maturity, or if there are no such Treasury bonds having such maturities, one hundred percent (100%) of the lowest prevailing prime rate of any of the five largest commercial banks in the United States ranked by assets; and

(vi) if moneys or Permitted Investments have been deposited by the Borrower into a separate fund or account or are otherwise held by the Borrower or by a fiduciary to be used to pay principal and/or interest on specified Obligations, then the principal and/or interest to be paid

from such moneys, Permitted Investments or from the earnings thereon shall be disregarded and not included in calculating Maximum Annual Debt Service.

“**MIPA**” means that certain Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2009, by and between the Borrower and the Corporation, as amended by the MIPA Amendment and supplemented by each Supplement.

“**MIPA Amendment**” means that certain First Amendment to Amended and Restated Master Installment Purchase Agreement, dated as of November 14, 2018, by and between the Borrower and the Corporation.

“**MIPA Documents**” means the MIPA, the MIPA Amendment, the Collateral Agency Agreement, each Authorizing Ordinance (including the WIFIA Ordinance), each Supplement, each Issuing Instrument (other than this Agreement), the SRF Omnibus Amendment (if applicable) and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing, in each case to the extent the provisions of such resolution, agreement, instrument or document pertain to Obligations.

“**Nationally Recognized Rating Agency**” means any nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission.

“**NEPA**” means the National Environmental Policy Act of 1969, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

“**NEPA Determination**” means the Record of Decision for the Project issued by EPA on June 20, 2018 in accordance with NEPA.

“**Net Loss Proceeds**” means Loss Proceeds after excluding any proceeds of delay-in-start-up insurance and proceeds covering liability of the Borrower to third parties.

“**Net System Revenues**” means, for any Borrower Fiscal Year, the System Revenues for such Borrower Fiscal Year, less the Maintenance and Operation Costs of the Water System for such Borrower Fiscal Year.

“**Obligations**” means (a) obligations of the Borrower for money borrowed (such as bonds, notes or other evidences of indebtedness) or as installment purchase payments under any contract (including Installment Payments), or as lease payments under any financing lease (determined to be such in accordance with generally accepted accounting principles), the principal of and interest on which are payable from Net System Revenues; (b) obligations to replenish any debt service reserve funds with respect to such obligations of the Borrower; (c) obligations secured by or payable from any of such obligations of the Borrower; and (d) obligations of the Borrower payable from Net System Revenues under any Hedging Agreement.

“**OFAC**” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Operating Period Servicing Fee” has the meaning set forth in Section 29(c) (*Fees and Expenses – Operating Period Servicing Fee*).

“Organizational Documents” means (a) the constitutional and statutory provisions that are the basis for the existence and authority of the Borrower, including any enabling statutes, ordinances or public charters and any other organic laws establishing the Borrower and (b) the resolutions, operating procedures or other organizational documents of or adopted by the Borrower by which the Borrower, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived.

“Other Indebtedness Covenant Default” has the meaning provided in Section 18(a)(v) (*System Events of Default and Remedies – Cross Default to MIPA Documents*).

“Outstanding” means, with respect to Obligations, Obligations that have not been cancelled or legally defeased or discharged within the meaning of the applicable MIPA Document.

“Outstanding WIFIA Loan Balance” means (i) the aggregate principal amount of the WIFIA Loan drawn by the Borrower minus (ii) the aggregate principal amount of the WIFIA Loan repaid by the Borrower, as determined in accordance with Section 7 (*Outstanding WIFIA Loan Balance; Revisions to Exhibit F-1 and Loan Amortization Schedule*).

“Owner” means any person who shall be the registered owner of any certificate or other evidence, which may be a book-entry, of a right to receive any payments (including Installment Payments) directly or as security for payment of an Outstanding Obligation.

“Parity Obligations” means Obligations which are senior in right of payment and right of security to the Subordinated Obligations.

“Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended, and all regulations promulgated thereunder.

“Payment Date” means each Semi-Annual Payment Date and each Interim Payment Date.

“Payment Default” has the meaning provided in Section 18(a)(i) (*System Events of Default and Remedies – Payment Default*).

“Permitted Debt” means:

- (a) Existing Indebtedness;
- (b) the WIFIA Loan;
- (c) Additional Parity Obligations that satisfy the requirements of Section 15(a) (*Negative Covenants – Indebtedness*), including obligations under any Credit Support Instrument in respect thereof;

(d) Additional Subordinated Obligations that satisfy the requirements of Section 15(a) (*Negative Covenants – Indebtedness*), including obligations under any Credit Support Instrument in respect thereof;

(e) Additional Junior Obligations that satisfy the requirements of Section 15(a) (*Negative Covenants – Indebtedness*), including obligations under any Credit Support Instrument in respect thereof; and

(f) indebtedness incurred in respect of Qualified Hedges.

“Permitted Hedging Termination” means the early termination, in whole or in part, of any Qualified Hedge (a) at the request of the Borrower as a result of a determination by the Borrower that such (or any part of such) Qualified Hedge is no longer necessary or required under the terms of this Agreement, (b) pursuant to the terms of any Hedging Agreement evidencing such Qualified Hedge that provides for the notional amount of such Qualified Hedge to amortize or otherwise be reduced from time to time or (c) as may be required pursuant to Section 14(n)(iv) (*Affirmative Covenants – Hedging*).

“Permitted Investment” means any investment in the City Treasurer’s pooled investment fund.

“Permitted Liens” means:

(a) Liens imposed pursuant to the MIPA Documents or otherwise created to secure Obligations in respect of Permitted Debt;

(b) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 14(m) (*Affirmative Covenants – Material Obligations; Liens*);

(c) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 14(m) (*Affirmative Covenants – Material Obligations; Liens*);

(d) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance, and other social security laws or regulations;

(e) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(f) judgment Liens; and

(g) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that, in any case, do not secure any monetary obligations and do not materially detract from the value

of the affected property or interfere with the ordinary conduct of business of the Borrower.

“**Person**” means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority.

“**Principal Payment Date**” means each August 1; provided that the initial Principal Payment Date shall be August 1, 2023 or such later date on or prior to August 1, 2024 elected by the Borrower pursuant to Section 9(e)(ii) (*Payment of Principal and Interest – Final Maturity Date*).

“**Principal Project Contracts**” means the Existing Principal Project Contracts and the Additional Principal Project Contracts.

“**Principal Project Party**” means any Person (other than the Borrower) party to a Principal Project Contract.

“**Professional Utility Consultant**” means any independent licensed professional engineer, certified public accountant, or other independent person or firm, selected by the Borrower, having skill and experience with the operation and maintenance of water systems of comparable size and character to the Water System in such areas as are relevant to the purposes for which such entity is retained, including the establishment of rates and charges.

“**Project**” means the components of the Pure Water San Diego Program – Phase I North City Project, located in San Diego, California, as further described in **Schedule IV** (*Project*).

“**Project Budget**” means the budget for the Project attached to this Agreement as **Schedule I** (*Project Budget*) showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs and the estimated sources and uses of funds for the Project.

“**Project Event of Default**” means a Project Event of Default as set forth in Section 19 (*Project Events of Default and Remedies*).

“**Project Obligations**” means any Obligations all or a portion of the proceeds of which are or will be applied to fund Total Project Costs related to the Water System.

“**Project Parity Obligations**” means any Parity Obligations all or a portion of the proceeds of which are or will be applied to fund Total Project Costs related to the Water System.

“**Projected Substantial Completion Date**” means July 26, 2023, as such date may be adjusted in accordance with Section 22(b) (*Project Oversight and Monitoring – Reporting*).

“**Qualified Hedge**” means, to the extent from time to time permitted by law, with respect to Permitted Debt, any Hedging Transaction entered into with a Qualified Hedge Provider and meeting the requirements of Section 14(n) (*Affirmative Covenants – Hedging*).

“Qualified Hedge Provider” means any bank or trust company, or an affiliate thereof, authorized to engage in the banking business, which is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof and which has an Acceptable Credit Rating.

“Quarterly Report” has the meaning set forth in Section 22(b) (*Project Oversight and Monitoring – Reporting*).

“Rate Covenant” has the meaning set forth in Section 14(k) (*Affirmative Covenants – Rate Covenant*).

“Rate Stabilization Fund” means the fund by that name established pursuant to Section 6.08 of the MIPA.

“Related Documents” means the MIPA Documents, the WIFIA Loan Documents and the Principal Project Contracts.

“Requisition” has the meaning provided in Section 4(a) (*Disbursement Conditions*).

“Reserve Fund” means the fund by that name established under an Issuing Instrument or Supplement.

“Reserve Fund Credit Facility” means a letter of credit, line of credit, surety bond, insurance policy or similar facility deposited in the Reserve Fund established under an Issuing Instrument in lieu of or in partial substitution for cash or securities on deposit therein.

“Reserve Fund Obligation” means the obligations of the Borrower to pay amounts advanced under any Reserve Fund Credit Facility entered into in accordance with the provisions of the related Issuing Instrument or Supplement, which obligations shall constitute Parity Obligations, Subordinated Obligations or Junior Obligations.

“Reserve Requirement” has the meaning given to such term in any Issuing Instrument or Supplement.

“Secondary Purchase Fund” means the fund by that name established pursuant to Section 6.08 of the MIPA.

“Secured Obligations” means the Parity Obligations, the obligations of the Borrower under this Agreement and the WIFIA Note, the Subordinated Obligations, the Junior Obligations and any other obligation secured by the Collateral.

“Secured Parties” means the Trustee, the WIFIA Lender, the Collateral Agent, any other Owners and any Credit Provider.

“Semi-Annual Payment Date” means each Interest Payment Date and each Principal Payment Date.

“Servicer” means such entity or entities as the WIFIA Lender shall designate from time to time to perform, or assist the WIFIA Lender in performing, certain duties hereunder.

“Servicing Set-Up Fee” has the meaning set forth in Section 29(a) (*Fees and Expenses – Servicing Set-Up Fee*).

“Servicing Fee” means any Construction Period Servicing Fee or Operating Period Servicing Fee.

“SRF Loan Agreements” means the agreements entered into between the Borrower and the SWRCB (including in its capacity as successor-in-interest to the California State Department of Health) under any State Revolving Fund loan program pursuant to which Obligations are incurred by the Borrower.

“SRF Omnibus Amendment” means any master amendment entered into between the Borrower and the SWRCB that amends the terms of the SRF Loan Agreements.

“State” has the meaning provided in the preamble hereto.

“Subordinated Obligations” means Obligations in respect of the Existing Indebtedness which constitute Subordinated Obligations (as defined in the MIPA) and any borrowing or indebtedness of the Borrower permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under any MIPA Document, in each case that ranks *pari passu* in right of payment and right of security with the WIFIA Loan. “Subordinated Obligations” shall include any Credit Support Instrument supporting any Subordinated Obligations and any Hedging Agreement entered into in respect of any Subordinated Obligations.

“Subordinated Obligations Interest Account” has the meaning set forth in the Collateral Agency Agreement.

“Subordinated Obligations Principal Account” has the meaning set forth in the Collateral Agency Agreement.

“Substantial Completion” means the Project is able to perform the functions for which it is designed.

“Substantial Completion Date” means the date on which the Borrower certifies to the WIFIA Lender, with evidence satisfactory to the WIFIA Lender, that Substantial Completion has occurred.

“Supplement” means a supplement to the MIPA providing for the payment of specific Installment Payments as the purchase price for additional components of any project, executed and delivered by the Borrower and the Corporation.

“SWRCB” means the California State Water Resources Control Board, a unit of the Environmental Protection Agency of the State, or any successor lender under any State Revolving Fund loan program.

“System Event of Default” has the meaning provided in Section 18 (*System Events of Default and Remedies*).

“System Revenues” means all income, rents, rates, fees, charges and other moneys derived from the ownership or operation of the Water System, including, without limiting the generality of the foregoing: (a) all income, rents, rates, fees, charges, or other moneys derived by the Borrower from the water services or facilities, and commodities or byproducts, including hydroelectric power, sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the Water System, and including, without limitation, investment earnings on the operating reserves to the extent that the use of such earnings is limited to the Water System by or pursuant to law, and earnings on any Reserve Fund for Obligations, but only to the extent that such earnings may be utilized under the Issuing Instrument for the payment of debt service for such Obligations; (b) standby charges and capacity charges derived from the services and facilities sold or supplied through the Water System; (c) the proceeds derived by the Borrower directly or indirectly from the lease of a part of the Water System; (d) any amount received from the levy or collection of taxes which are solely available and are earmarked for the support of the operation of the Water System; (e) amounts received under contracts or agreements with governmental or private entities and designated for capital costs for the Water System; and (f) grants for maintenance and operations received from the Government or from the State; provided that System Revenues shall not include: (1) in all cases, customers' deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the Borrower; and (2) the proceeds of borrowings; but (g) notwithstanding the foregoing, there shall be deducted from System Revenues any amounts transferred into a Rate Stabilization Fund as contemplated by Section 6.08(b) of the MIPA, and any amounts transferred from current System Revenues to the Secondary Purchase Fund as contemplated by Section 6.08(c) of the MIPA, and there shall be added to System Revenues any amounts transferred out of such Rate Stabilization Fund or the Secondary Purchase Fund to pay Maintenance and Operation Costs of the Water System.

“Tender Indebtedness” means any Obligations or portions of Obligations, a feature of which is an option, on the part of the holders thereof, or an obligation, under the terms of such Obligations, to tender all or a portion of such Obligations to the Borrower, a Trustee or other fiduciary or agent for payment or purchase and requiring that such Obligations or portions of Obligations or that such rights to payments or portions of payments be purchased if properly presented. Tender Indebtedness may consist of Parity Obligations, Subordinated Obligations or Junior Obligations.

“Term Obligations” means Obligations which are payable on or before their specified maturity dates from sinking fund payments established for that purpose and calculated to retire such Obligations on or before their specified maturity dates.

“Total Project Costs” means (a) the costs paid or incurred or to be paid or incurred by the Borrower in connection with or incidental to the acquisition, design, construction and equipping of the Project, including legal, administrative, engineering, planning, design, insurance and financing (including costs of issuance); (b) amounts, if any, required by the MIPA Documents or the WIFIA Loan Documents to be paid into any fund or account upon the incurrence of the WIFIA Loan, any Parity Obligations, any Subordinated Obligations or any

Junior Obligations, in each case in respect of the Project; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) during the Construction Period in respect of any indebtedness of the Borrower, in each case in connection with the Project (other than the WIFIA Loan); and (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower.

“**Trustee**” means a financial institution acting in its capacity as Trustee under and pursuant to any Issuing Instrument, or its successors and assigns.

“**Uncontrollable Force**” means any cause beyond the control of the Borrower, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, or act of God (provided that the Borrower shall not be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Borrower and the Borrower does not control the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower.

“**Uniform Commercial Code**” or “**UCC**” means the Uniform Commercial Code, as in effect from time to time in the State.

“**Updated Financial Model**” means the Base Case Financial Model, updated in accordance with Section 21(a) (*System Financial Planning and Reporting – Updated Financial Model*).

“**Variable Interest Rate**” means a variable interest rate to be borne by any Permitted Debt. The method of computing such variable interest rate shall be specified in the Issuing Instrument pursuant to which such Permitted Debt is incurred. Such Issuing Instrument shall also specify either (a) the particular period or periods of time for which each value of such variable interest rate shall remain in effect or (b) the time or times upon which any change in such variable interest rate shall become effective.

“**Variable Rate Indebtedness**” means any indebtedness or portion thereof that bears interest at a Variable Interest Rate, including indebtedness evidenced by Obligations, the interest rate for which is subject to adjustment periodically through a remarketing process or according to a stated published index for similar obligations in the municipal markets. Variable Rate Indebtedness may consist of Parity Obligations, Subordinated Obligations or Junior Obligations.

“**Water Service**” means the collection, conservation, production, storage, treatment, transmission, furnishing and distribution services made available or provided by the Water System.

“Water System” means any and all facilities, properties, improvements and works at any time owned, controlled or operated by the Borrower as part of the public utility system of the Borrower for water purposes, for the development, obtaining, conservation, production, storage, treatment, transmission, furnishing and distribution of water and its other commodities or byproducts for public and private use (whether located within or without the City of San Diego), and any related or incidental operations designated by the Borrower as part of the Water System, including reclaimed and re-purified water.

“Water System Portion” means the Eligible Project Costs set forth in the section of the Project Budget under the heading “Uses of Funds for Water System – Pure Water San Diego Program Phase 1 – North City.”

“Water Utility Fund” means the fund by that name established under the Charter.

“WIFIA” has the meaning provided in the recitals hereto.

“WIFIA Note” means the note delivered by the Borrower in substantially the form of **Exhibit A** (*Form of WIFIA Note*).

“WIFIA Debt Service” means, with respect to any Payment Date, the principal portion of the Outstanding WIFIA Loan Balance and any interest payable thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), in each case, (a) as set forth on **Exhibit F-1** (*WIFIA Debt Service*), as amended from time to time in accordance with Section 7 (*Outstanding WIFIA Loan Balance; Revisions to Exhibit F-1 and Loan Amortization Schedule*) and (b) due and payable on such Payment Date in accordance with the provisions of Section 9 (*Payment of Principal and Interest*).

“WIFIA Interest Rate” has the meaning provided in Section 6 (*Interest Rate*).

“WIFIA Lender” has the meaning provided in the preamble hereto.

“WIFIA Lender’s Authorized Representative” means the Administrator and any other Person who shall be designated as such pursuant to Section 27 (*WIFIA Lender’s Authorized Representative*).

“WIFIA Loan” means the secured loan made by the WIFIA Lender to the Borrower on the terms and conditions set forth herein, pursuant to the Act, in a principal amount not to exceed \$614,000,000, to be used in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Water System Portion of the Project.

“WIFIA Loan Documents” means this Agreement, the WIFIA Note, the WIFIA Ordinance and the other MIPA Documents.

“WIFIA Ordinance” means Ordinance No. O-20993, adopted by the City Council on October 9, 2018, authorizing the execution and delivery of (i) the WIFIA Loan Agreement, (ii) the WIFIA Note, (iii) the MIPA Amendment and (iv) the Collateral Agency Agreement and certain related actions by the Borrower in connection with the WIFIA Loan.

Section 2. Interpretation.

(a) Unless the context shall otherwise require, the words “hereto,” “herein,” “hereof” and other words of similar import refer to this Agreement as a whole.

(b) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa.

(c) Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require.

(d) The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”

(e) Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the Borrower’s knowledge after reasonable and diligent inquiry. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns.

(f) Unless the context shall otherwise require, references to preambles, recitals, Sections, subsections, clauses, schedules, exhibits, appendices and provisions are to the applicable preambles, recitals, Sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement.

(g) The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement.

(h) The headings or titles of this Agreement and its Sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions.

(i) Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time to time in accordance with the terms thereof and hereof.

(j) Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 37 (*Notices; Payment Instructions*) and signed by a duly authorized representative of such party.

(k) References to “disbursements of WIFIA Loan Proceeds” or similar phrasing shall be construed as meaning the same thing as “paying the purchase price of the WIFIA Note”.

(l) Whenever the Agreement requires a change in principal amount, interest rate or amortization schedule of the WIFIA Loan, it is intended that such change be reflected in the WIFIA Note. Whenever there is a mandatory or optional prepayment of the WIFIA Loan, it is intended that such prepayment be implemented through a prepayment of the WIFIA Note.

Section 3. WIFIA Loan Amount. The principal amount of the WIFIA Loan shall not exceed \$614,000,000. WIFIA Loan proceeds available to be drawn shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent – Conditions Precedent to All Disbursements*).

Section 4. Disbursement Conditions.

(a) WIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred and approved for payment by or on behalf of the Borrower in connection with the Water System Portion of the Project. Each disbursement of the WIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One** (*Form of Requisition*) to **Exhibit D** (*Requisition Procedures*), along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the WIFIA Lender, all in accordance with the procedures of **Exhibit D** (*Requisition Procedures*) and subject to the requirements of this Section 4 and the conditions set forth in Section 11(b) (*Conditions Precedent – Conditions Precedent to All Disbursements*); provided that no disbursements of WIFIA Loan proceeds shall be made after the Final Disbursement Date.

(b) The Borrower shall deliver copies of each Requisition to the WIFIA Lender and the Servicer (if any) on or before the first (1st) Business Day of each month for which a disbursement is requested. If the WIFIA Lender shall expressly approve a Requisition or shall not expressly deny a Requisition, disbursements of funds shall be made on the fifteenth (15th) day of the month for which a disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15th) day is not a Business Day. Express WIFIA Lender approval or denial shall be substantially in the form annexed hereto as **Appendix Two** (*[Approval/Disapproval] of the WIFIA Lender*) to **Exhibit D** (*Requisition Procedures*). In no event shall disbursements be made more than once each month. At the time of any disbursement, the sum of all prior disbursements of WIFIA Loan proceeds and the disbursement then to be made shall not exceed the cumulative disbursements through the end of the then-current Federal Fiscal Year set forth in the Anticipated WIFIA Loan Disbursement Schedule, as the same may be amended from time to time in accordance with the terms of this Agreement. Any scheduled disbursement (as reflected in the Anticipated WIFIA Loan Disbursement Schedule) that remains undrawn at the end of any Federal Fiscal Year shall be available for disbursement in subsequent years, subject to this Section 4.

(c) The Borrower may amend the Anticipated WIFIA Loan Disbursement Schedule by submitting a revised version thereof to the WIFIA Lender no later than thirty (30) days prior to the proposed effective date of such amendment, together with a detailed explanation of the reasons for such revisions. Such revised Anticipated WIFIA Loan Disbursement Schedule shall become effective upon the WIFIA Lender’s approval thereof, which approval shall be granted in the WIFIA Lender’s sole discretion. Unused draw authority from a prior Federal Fiscal Year automatically rolls forward to be available in the succeeding

Federal Fiscal Year up to the last anticipated date of disbursement set forth in the Anticipated WIFIA Loan Disbursement Schedule, having the effect of automatically updating the Anticipated WIFIA Loan Disbursement Schedule without need for the WIFIA Lender's approval.

Section 5. Term. The term of the WIFIA Loan shall extend from the Effective Date to the Final Maturity Date or to such earlier date as all amounts due or to become due to the WIFIA Lender hereunder have been irrevocably paid in full in immediately available funds.

Section 6. Interest Rate. The interest rate with respect to the Outstanding WIFIA Loan Balance (the "**WIFIA Interest Rate**") shall be three and thirty-six hundredths percent (3.36%) per annum. Interest will accrue and be computed on the Outstanding WIFIA Loan Balance (as well as on any past due interest) from time to time on the basis of a three hundred sixty (360)-day year of twelve (12) thirty (30) day months, and will be compounded semi-annually; provided that, in the event of any Payment Default or any Project Event of Default, the Borrower shall pay interest on the Outstanding WIFIA Loan Balance at the Default Rate, in the case of any Payment Default, from (and including) its due date to (but excluding) the date of actual payment and, in the case of any Project Event of Default, from (and including) the date of such occurrence to (but excluding) the earlier of (a) the date on which such Project Event of Default has been cured (if applicable) and (b) the date on which the Outstanding WIFIA Loan Balance has been paid in full in cash.

Section 7. Outstanding WIFIA Loan Balance; Revisions to **Exhibit F-1** and Loan Amortization Schedule.

(a) The Outstanding WIFIA Loan Balance will be (i) increased on each occasion on which the WIFIA Lender disburses loan proceeds hereunder, by the amount of such disbursement of loan proceeds and (ii) decreased upon each payment or prepayment of the Outstanding WIFIA Loan Balance, by the amount of principal so paid. The WIFIA Lender may in its discretion at any time and from time to time, or when so requested by the Borrower, advise the Borrower by written notice of the amount of the Outstanding WIFIA Loan Balance as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error.

(b) The WIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit F-1** (*WIFIA Debt Service*) from time to time, in accordance with the principles set forth below in this clause (b) to reflect (i) any change to the Outstanding WIFIA Loan Balance, (ii) any change to the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement, and (iii) such other information as the WIFIA Lender may determine is necessary for administering the WIFIA Loan and this Agreement. The WIFIA Lender shall modify the Loan Amortization Schedule promptly following (x) the Final Disbursement Date and (y) if applicable, the WIFIA Lender's receipt of the Final Maturity Date Extension Notice pursuant to Section 9(e)(ii) (*Payment of Principal and Interest – Final Maturity Date*). An updated Loan Amortization Schedule reflecting a Final Maturity Date of August 1, 2058 is attached to this Agreement, for illustration purposes only, as **Exhibit F-2** (*Extended Maturity WIFIA Debt Service*).

(c) Any calculations described in this Section 7 shall be rounded up to the nearest whole cent. Any partial prepayments of the Outstanding WIFIA Loan Balance pursuant to Section 10 (*Prepayment*) shall be applied in accordance with Section 10(c) (*Prepayment – General Prepayment Instructions*). Any adjustments or revisions to the Loan Amortization Schedule as a result of changes in the Outstanding WIFIA Loan Balance other than prepayments shall be applied to reduce future payments due on the WIFIA Note on a pro-rata basis. Absent manifest error, the WIFIA Lender's determination of matters set forth on **Exhibit F-1 (WIFIA Debt Service)** as revised shall be conclusive evidence thereof; provided that neither the failure to modify the Loan Amortization Schedule nor the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document. The WIFIA Lender shall provide the Borrower with a copy of **Exhibit F-1 (WIFIA Debt Service)** as revised, but no failure to provide or delay in providing the Borrower with such copy shall affect any of the obligations of the Borrower under this Agreement or the other WIFIA Loan Documents.

Section 8. Security and Priority; Flow of Funds.

(a) The obligations of the Borrower to pay WIFIA Debt Service under this Agreement and the WIFIA Note constitute "Obligations" and "Subordinated Obligations" under and as defined in the MIPA and "Secured Obligations" under and as defined in the Collateral Agency Agreement. This Agreement constitutes an "Issuing Instrument" under and as defined in the MIPA.

(b) As security for the WIFIA Loan, the Borrower shall pledge, assign and grant, or shall cause to be pledged, assigned and granted to the Collateral Agent for the benefit of the WIFIA Lender, Liens on the Collateral in accordance with the provisions of the MIPA Documents. The Obligations in respect of the WIFIA Loan shall be secured by the Liens on the Collateral, which shall be subordinate only (except as otherwise required by law) to the Lien on the Collateral in favor of the Parity Obligations.

(c) Except for Permitted Liens, the Collateral will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that is of equal rank with or senior to the pledge of the Borrower created under the MIPA Documents for the benefit of the WIFIA Lender. All organizational, regulatory or other necessary action on the part of the Borrower with respect to the foregoing has been duly and validly taken.

(d) The Borrower shall not use System Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 and the MIPA Documents and shall not apply any portion of the System Revenues in contravention of this Agreement or the MIPA Documents.

(e) The MIPA provides that all System Revenues shall be deposited in the Water Utility Fund and applied in accordance with the requirements specified in Section 5.02 of the MIPA, including transfers by the Borrower to the Collateral Agent to pay Outstanding Obligations. Section 7 of the Collateral Agency Agreement sets forth the required allocation of funds by the Collateral Agent that have been transferred pursuant to Section 5.02 of the MIPA. A copy of each of Section 5.02 of the MIPA and Section 7 of the Collateral Agency Agreement,

as of the Effective Date, are attached hereto as **Schedule V** (*Section 5.02 of MIPA and Section 7 of Collateral Agency Agreement*) (all capitalized terms used in **Schedule V** and not otherwise defined in this Agreement shall have the meanings provided in the MIPA or Collateral Agency Agreement, as applicable). The Borrower shall be unconditionally and irrevocably obligated, so long as any Obligation remains Outstanding and unpaid, to take all lawful action necessary or required to continue to entitle the Borrower to collect and deposit System Revenues into the Water Utility Fund for use as provided in the MIPA and the Collateral Agency Agreement.

(f) Following the occurrence of an Event of Default and the declaration of acceleration by the Collateral Agent, all Net System Revenues held by and available to the Collateral Agent, including as a result of the exercise of remedies by the Collateral Agent on behalf of the Secured Parties, shall be applied as set forth in Section 9 of the Collateral Agency Agreement, a copy of which, as of the Effective Date, is attached hereto as **Schedule VI** (*Section 9 of Collateral Agency Agreement*) (all capitalized terms used in **Schedule VI** and not otherwise defined in this Agreement shall have the meanings provided in the Collateral Agency Agreement).

Section 9. Payment of Principal and Interest.

(a) Payment Dates. The Borrower agrees to pay the principal of and interest on the WIFIA Loan by making payments in accordance with the provisions of this Agreement and the MIPA Documents, in the case of interest, on each Interest Payment Date and, in the case of principal, on each Principal Payment Date and, in each case, on each other date on which payment thereof is required to be made hereunder (including any Interim Payment Date, the Final Maturity Date and any date on which payment is otherwise due); provided that if any such date is not a Business Day, payment shall be made on the next Business Day following such date. Any payment of the WIFIA Note shall be treated as a payment of the WIFIA Loan and any prepayment of principal of the WIFIA Loan shall be treated as a redemption of the WIFIA Note.

(b) Interest Commencement Date. Interest shall accrue and be payable on the WIFIA Loan (and under the WIFIA Note) (i) commencing on the date of the initial disbursement of the WIFIA Loan and (ii) only on those amounts for which a Requisition has been submitted and funds (or such portion of funds as have been approved by WIFIA Lender) have been made available to the Borrower for use on the Project in accordance with Section 4 (*Disbursement Conditions*).

(c) Payment of WIFIA Debt Service on Semi-Annual Payment Dates. On each Semi-Annual Payment Date, the Borrower shall pay WIFIA Debt Service in the amounts set forth in respect of such Semi-Annual Payment Date on **Exhibit F-1** (*WIFIA Debt Service*), as the same may be revised as provided in Section 7 (*Outstanding WIFIA Loan Balance; Revisions to Exhibit F-1 and Loan Amortization Schedule*). All such payments shall be made in accordance with Section 9(f) (*Payment of Principal and Interest – Manner of Payment*).

(d) Payment of WIFIA Debt Service on Interim Payment Dates.

(i) If any Subordinated Obligations (including Subordinated Obligations under any loan from the California State Water Resources Control Board, but

excluding Subordinated Obligations that constitute Interim Financing or Variable Rate Indebtedness) require the payment of principal or interest on any Interim Payment Date, the Borrower shall promptly notify the WIFIA Lender thereof in writing and identify the relevant Interim Payment Date(s).

(ii) On any Interim Payment Date:

(A) the Borrower shall transfer, pursuant to clause Fifth and/or clause Sixth of Section 5.02(a) of the MIPA, as applicable, Net System Revenues from the Water Utility Fund to the Collateral Agent for deposit into the Subordinated Obligations Interest Account (in the case of payments of interest) and/or the Subordinated Obligations Principal Account (in the case of payments of principal) in the amount of WIFIA Debt Service payable on the next succeeding Semi-Annual Payment Date; and

(B) the Collateral Agent shall transfer to the WIFIA Lender, pursuant to Section 7(b)(iv) and/or 7(b)(v) of the Collateral Agency Agreement, as applicable, any amounts deposited into the Subordinated Obligations Interest Account or Subordinated Obligations Principal Account pursuant to Section 9(d)(ii)(A).

(e) Final Maturity Date.

(i) Notwithstanding anything herein to the contrary, the Outstanding WIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date (or on any earlier date on which the WIFIA Loan and corresponding WIFIA Note are subject to mandatory prepayment prior to the maturity thereof or shall be accelerated pursuant to the provisions of Section 18 (*System Events of Default and Remedies*)).

(ii) In the event that, as of any date that is at least sixty (60) days (but not more than one hundred eighty (180) days) prior to the initial Principal Payment Date, the Projected Substantial Completion Date, as reflected in the most recent Quarterly Report, is later than July 26, 2023, the Borrower may deliver to the WIFIA Lender a certificate from the Borrower's Authorized Representative stating that the Borrower elects to extend the Final Maturity Date and the initial Principal Payment Date to account for the projected delay in Substantial Completion (such notice, the "**Final Maturity Date Extension Notice**"); provided that (x) only one Final Maturity Date Extension Notice may be given and (y) the Final Maturity Date Extension Notice shall be irrevocable.

(iii) The Final Maturity Date Extension Notice shall specify the proposed extended Final Maturity Date and initial Principal Payment Date. The proposed extended Final Maturity Date shall be the earlier of (A) the Principal Payment Date closest to, but not later than, the thirty-fifth (35th) anniversary of the Projected Substantial Completion Date and (B) August 1, 2058. The proposed extended initial Principal Payment Date shall be the earlier of (A) the Principal Payment Date immediately following the Projected Substantial Completion Date and (B) August 1, 2024. Upon receipt by the WIFIA Lender of the Final Maturity Date Extension Notice, the Final Maturity Date and the initial Principal Payment Date shall be the dates elected by the

Borrower therein, and the WIFIA Lender shall promptly modify the Loan Amortization Schedule in accordance with Section 7(b) to reflect such extended Final Maturity Date and initial Principal Payment Date; provided that if (x) the extended Final Maturity Date set forth in the Final Maturity Date Extension Notice is more than thirty-five (35) years following the actual Substantial Completion Date, the WIFIA Lender shall modify such extended Final Maturity Date and the Loan Amortization Schedule to reflect a Final Maturity Date that is the Principal Payment Date closest to, but not later than, the thirty-fifth (35th) anniversary of the Substantial Completion Date, and (y) the extended initial Principal Payment Date set forth in the Final Maturity Date Extension Notice is later than the Principal Payment Date immediately following the actual Substantial Completion Date, the WIFIA Lender shall modify such extended initial Principal Payment Date and the Loan Amortization Schedule to reflect an initial Principal Payment Date that is the Principal Payment Date immediately following the Projected Substantial Completion Date.

(f) Manner of Payment. Payments under this Agreement (and the WIFIA Note which payments shall not be duplicative) shall be made by wire transfer on or before each Payment Date in Dollars in immediately available funds in accordance with payment instructions provided by the WIFIA Lender pursuant to Section 37 (*Notices; Payment Instructions*), as modified in writing from time to time by the WIFIA Lender. The Borrower shall make any such payment or portion thereof in accordance with the terms of the MIPA and the Collateral Agency Agreement.

(g) WIFIA Note; Adjustments to Loan Amortization Schedule. As evidence of the Borrower's obligation to repay the WIFIA Loan, the Borrower shall issue and deliver to the WIFIA Lender, on or prior to the Effective Date, the WIFIA Note substantially in the form of **Exhibit A** (*Form of WIFIA Note*), having a maximum principal amount of \$614,000,000, bearing interest at the rate set forth in Section 6 (*Interest Rate*) and having principal and interest payable on the same dates set forth herein.

(h) No Defeasance. Notwithstanding anything to the contrary in any MIPA Document or document related thereto, the WIFIA Loan shall not be subject to defeasance and no amounts in respect of the WIFIA Loan shall be considered or deemed to have been paid until the WIFIA Lender shall have received irrevocable payment in immediately available funds in accordance with the requirements for payment set forth in this Agreement.

Section 10. Prepayment.

(a) Mandatory Prepayment.

(i) The Borrower shall prepay 100% of the Outstanding WIFIA Loan Balance in full in cash upon the incurrence or existence of any Project Parity Obligations. Such prepayment shall be made prior to or concurrently with the incurrence of such Project Parity Obligations and shall include all accrued and unpaid interest on the amount to be prepaid and all other Obligations in respect of the WIFIA Loan, including fees and expenses, then due and payable.

(ii) The Borrower shall provide written notice to the WIFIA Lender not less than thirty (30) days or more than sixty (60) days prior to the date on which it will make the mandatory prepayment described in Section 10(a)(i); provided that the Borrower's failure to deliver such notice shall not diminish, impair or otherwise affect the Borrower's obligation to make such mandatory prepayment as and when the circumstances requiring such mandatory prepayment have occurred.

(b) Optional Prepayments. The Borrower may prepay the WIFIA Loan in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided that such prepayments shall be in principal amounts of \$1,000,000 or any integral multiple of \$1.00 in excess thereof), at any time or from time to time, without penalty or premium, by paying to the WIFIA Lender such principal amount of the WIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment of the WIFIA Loan shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the WIFIA Lender not less than thirty (30) days or more than sixty (60) days prior to the date set for prepayment, unless otherwise agreed by the WIFIA Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written notice to the WIFIA Lender. Anything in this Section 10(b) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(c) General Prepayment Instructions. Upon the WIFIA Lender's receipt of confirmation that payment in full in cash of the entire Outstanding WIFIA Loan Balance, and all accrued and unpaid interest and fees and expenses with respect thereto, has occurred as a result of a prepayment, the WIFIA Lender shall surrender the WIFIA Note to the Borrower or its representative at the principal office of the WIFIA Lender. If the Borrower prepays only part of the unpaid balance of principal of the WIFIA Loan, the WIFIA Lender may make a notation on **Exhibit F-1 (WIFIA Debt Service)** indicating the amount of principal of and interest on the WIFIA Note then being prepaid. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on **Exhibit F-1 (WIFIA Debt Service)** shall be conclusive evidence thereof; provided that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document. All partial prepayments of principal shall be applied to reduce future payments due on the WIFIA Loan on a pro-rata basis. If such funds have not been so paid on the prepayment date, such principal amount of the WIFIA Loan shall continue to bear interest until payment thereof at the rate provided for in Section 6 (*Interest Rate*).

Section 11. Conditions Precedent.

(a) Conditions Precedent to Effectiveness. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective until each of the following conditions precedent shall have been satisfied or waived in writing by the WIFIA Lender in its sole discretion:

(i) The Borrower shall have duly executed and delivered to the WIFIA Lender this Agreement and the WIFIA Note, each in form and substance satisfactory to the WIFIA Lender.

(ii) The Borrower shall have delivered to the WIFIA Lender certified, complete, and fully executed copies of each MIPA Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement shall be in full force and effect and in form and substance satisfactory to the WIFIA Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided that for purposes of this Section 11(a)(ii), any such waiver shall be subject to the WIFIA Lender's consent in its sole discretion).

(iii) Counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit G-1** (*Opinions Required of Counsel to Borrower*), bond counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit G-2** (*Opinions Required from Bond Counsel*)) and counsel to each of the Corporation, Public Facilities Financing Authority of the City of San Diego and Trustee shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion.

(iv) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters substantially in the form attached hereto as **Exhibit C** (*Certification Regarding Debarment, Suspension and other Responsibility Matters*) with respect to the Borrower and its principals (as defined in 2 C.F.R. § 180.995).

(v) The Borrower shall have provided evidence to the WIFIA Lender's satisfaction, no more than thirty (30), but no less than fourteen (14), days prior to the Effective Date, of the assignment by at least two (2) Nationally Recognized Rating Agencies of a public Investment Grade Rating on any then-Outstanding Parity Obligations with respect to the Project and a public rating on the WIFIA Loan and the Outstanding Subordinated Obligations and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(vi) The Borrower shall have delivered to the WIFIA Lender a certificate from the Borrower's Authorized Representative in the form attached hereto as **Exhibit H** (*Form of Borrower's Officer's Certificate*) (A) as to the satisfaction of certain conditions precedent set forth in this Section 11(a) as required by the WIFIA Lender, (B) designating the Borrower's Authorized Representative, and (C) confirming such person's position and incumbency.

(vii) The Borrower shall have demonstrated to the WIFIA Lender's satisfaction that, as of the Effective Date, the aggregate of all funds committed to the

development and construction of the Project as set forth in the Base Case Financial Model and in the Project Budget to pay Total Project Costs are sufficient to carry out the Project, pay all Total Project Costs anticipated for the Project and achieve Substantial Completion by the Projected Substantial Completion Date.

(viii) The Borrower shall have provided to the WIFIA Lender certified, complete, and fully executed copies of each Existing Principal Project Contract, together with any amendments, waivers or modifications thereto, and each such agreement shall be in full force and effect and in form and substance satisfactory to the WIFIA Lender.

(ix) The Borrower shall have demonstrated to the WIFIA Lender's satisfaction that it has obtained all Governmental Approvals necessary to commence construction of the Project, other than those listed as "Remaining" on **Schedule VIII** (*Governmental Approvals*), and that all such Governmental Approvals are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation).

(x) The Borrower shall have delivered to the WIFIA Lender a certified Base Case Financial Model on or prior to the Effective Date, which Base Case Financial Model shall (A) demonstrate that projected System Revenues are sufficient to meet the Loan Amortization Schedule, (B) demonstrate compliance with the Rate Covenant for each Borrower Fiscal Year through the Final Maturity Date, (C) reflect principal amortization and interest payment schedules acceptable to the WIFIA Lender, (D) demonstrate that the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over its useful life and (E) otherwise be in form and substance acceptable to the WIFIA Lender.

(xi) The Borrower shall have (A) provided evidence satisfactory to the WIFIA Lender that the Borrower is authorized, pursuant to Sections 5450 and 5451 of the California Government Code and the WIFIA Ordinance, to pledge, assign, and grant the Liens on the Collateral purported to be pledged, assigned, and granted pursuant to the MIPA Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act, (B) recorded or filed, or caused to be recorded or filed, for record in such manner and in such places as are required all other documents and instruments, and taken or caused to be taken all other actions, as are necessary or desirable to establish and enforce the Lien on the Collateral (for the benefit of the WIFIA Lender and the other Secured Parties) to the extent contemplated by the MIPA Documents or required pursuant to applicable law, and (C) paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any MIPA Documents or any instruments, certificates or financing statements in connection with the foregoing.

(xii) The Borrower shall have paid in full all invoices delivered by the WIFIA Lender to the Borrower as of the Effective Date for the fees and expenses of the WIFIA Lender's counsel and financial advisors and any auditors or other consultants retained by the WIFIA Lender for the purposes hereof.

(xiii) The Borrower shall have (A) provided evidence satisfactory to the WIFIA Lender of compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project and (B) complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and shall have provided evidence satisfactory to the WIFIA Lender of such compliance upon request by the WIFIA Lender.

(xiv) The Borrower shall have delivered a report containing the information required pursuant to Section 22(c) (*Project Oversight and Monitoring – Additional Reporting*).

(xv) The Borrower shall have (A) obtained a Federal Employer Identification Number, (B) obtained a Data Universal Numbering System Number, and (C) registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov).

(xvi) The Borrower shall have delivered to the WIFIA Lender (A) (1) certificates of insurance or (2) documents pertaining to the Borrower's self-insurance program, in each case evidencing that the Borrower and each applicable Principal Project Party has obtained insurance with respect to the Borrower, the Project and the Water System, as applicable, that meets the requirements of Section 14(f) (*Affirmative Covenants – Insurance*) and (B) at the WIFIA Lender's request, copies of such insurance policies or documents pertaining to the Borrower's self-insurance program.

(xvii) The Borrower shall have provided to the WIFIA Lender evidence that the Borrower is duly organized and validly existing under the laws of its jurisdiction of formation, with full power, authority and legal right to own the properties of the Water System and to carry on the business and governmental functions of the Water System as now conducted, including the following documents, each certified by the Borrower's Authorized Representative: (A) a copy of the Borrower's Organizational Documents, as in effect on the Effective Date, which Organizational Documents shall be in full force and effect and shall not have been amended since the date of the last amendment thereto shown on the certificate; (B) a copy of all resolutions or other documents authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the WIFIA Loan Documents to which it is a party, and such authorizing documents have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only authorizing documents adopted by the Borrower relating to the matters described therein; and (C) a copy of such further instruments and documents (if any) as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions, the MIPA Documents and the WIFIA Loan Documents.

(xviii) The Borrower shall have duly adopted the WIFIA Ordinance which is in form and substance satisfactory to the WIFIA Lender and is and shall remain in full force and effect.

(xix) The Borrower shall have provided the WIFIA Lender records of the Eligible Project Costs incurred prior to the Effective Date, in form and substance satisfactory to the WIFIA Lender.

(xx) The Borrower shall have provided to the WIFIA Lender certified, complete and fully executed copies of each performance bond, letter of credit, guarantee or other performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the Effective Date, each of which shall be (A) in compliance with the requirements for such performance security instrument pursuant to the applicable Principal Project Contract and (B) in full force and effect.

(xxi) The representations and warranties of the Borrower set forth in this Agreement (including Section 12 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true and correct, as of the Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xxii) The Borrower shall have provided the WIFIA Lender with evidence satisfactory to the WIFIA Lender that, as of the Effective Date (A) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (B) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed eighty percent (80%) of Total Project Costs.

(xxiii) The Borrower shall have provided the WIFIA Lender with evidence satisfactory to the WIFIA Lender that the Borrower has developed an operations and maintenance plan with respect to the Project that identifies sufficient revenues to operate, maintain and repair the Project during its useful life.

(xxiv) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the WIFIA Lender, all in form and substance satisfactory to the WIFIA Lender.

(b) Conditions Precedent to All Disbursements. Notwithstanding anything in this Agreement to the contrary, the WIFIA Lender shall have no obligation to make any disbursement of loan proceeds to the Borrower (including the initial disbursement hereunder) until each of the following conditions precedent has been satisfied or waived in writing by the WIFIA Lender in its sole discretion:

(i) The Borrower shall have provided to the WIFIA Lender evidence satisfactory to the WIFIA Lender that (A) the aggregate amount of all disbursements of the WIFIA Loan (including the requested disbursement) shall not exceed the amount of Eligible Project Costs paid or incurred by the Borrower in connection with the Water System Portion of the Project and (B) the Borrower has sufficient available funds committed to the Project, which together with funds that remain available and not yet

drawn under the WIFIA Loan, will be sufficient to pay the reasonably anticipated remaining Total Project Costs.

(ii) The Borrower shall have provided an Updated Financial Model reasonably satisfactory to the WIFIA Lender in accordance with Section 21(a) (*System Financial Planning and Reporting – Updated Financial Model*).

(iii) To the extent not previously delivered to the WIFIA Lender, the Borrower shall have delivered to the WIFIA Lender certified, complete and fully executed copies of any MIPA Documents entered into after the Effective Date.

(iv) To the extent not previously delivered to the WIFIA Lender, the Borrower shall have provided certified copies of all Principal Project Contracts requested by the WIFIA Lender pursuant to Section 14(b)(iii) (*Affirmative Covenants – Copies of Documents*), including, in each case, any amendment, modification or supplement thereto, entered into after the Effective Date.

(v) The Borrower shall have demonstrated to the WIFIA Lender's satisfaction that all Governmental Approvals necessary as of the time of the applicable disbursement for the development, construction, operation and maintenance of the Project have been issued and are in full force and effect.

(vi) Each of the insurance policies obtained by the Borrower and by any applicable Principal Project Party in satisfaction of the conditions in Section 14(f) (*Affirmative Covenants – Insurance*) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.

(vii) At the time of, and immediately after giving effect to, any disbursement of WIFIA Loan proceeds then currently requested, (A) no Default or Event of Default hereunder and no event of default under any other Related Document shall have occurred and be continuing and (B) no event that with the giving of notice or the passage of time or both would constitute an event of default under any other Related Document shall have occurred and be continuing.

(viii) The representations and warranties of the Borrower set forth in this Agreement (including Section 12 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true, correct and complete as of each date on which any disbursement of the WIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(ix) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred and be continuing since March 16, 2018.

(x) The Borrower shall have delivered to the WIFIA Lender a Requisition that complies with the provisions of Section 4 (*Disbursement Conditions*),

and the WIFIA Lender shall have approved (or be deemed to have approved in accordance with Section 4(b) (*Disbursement Conditions*)) such Requisition.

(xi) The Borrower shall have paid in full (A) any outstanding Servicing Fees due and payable under Section 29 (*Fees and Expenses*) and (B) all invoices received from the WIFIA Lender as of the date of disbursement of the WIFIA Loan, for the fees and expenses of the WIFIA Lender's counsel and financial advisors and any auditors or other consultants retained by the WIFIA Lender for the purposes hereof.

(xii) To the extent not previously delivered to the WIFIA Lender, the Borrower shall have provided to the WIFIA Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the date of disbursement of the WIFIA Loan, each of which shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract and (B) in full force and effect.

Section 12. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 12(b) (*Representations and Warranties of Borrower – Officer's Authorization*), Section 12(k) (*Representations and Warranties of Borrower – Credit Ratings*) and the first sentence of Section 12(n) (*Representations and Warranties of Borrower – Principal Project Contracts*), as of each date on which any disbursement of the WIFIA Loan is requested or made:

(a) Organization; Power and Authority. The Borrower is a municipal corporation organized and existing under the Charter, duly organized and validly existing under the laws of the State, has full legal right, power and authority to do business in the State and to enter into the Related Documents then in existence, to execute and deliver this Agreement and the WIFIA Note, and to carry out and consummate all transactions contemplated hereby and thereby, and has duly authorized the execution, delivery and performance of this Agreement, the WIFIA Note, and the other Related Documents.

(b) Officers' Authorization. As of the Effective Date, the officers of the Borrower executing (or that previously executed) the Related Documents, and any certifications or instruments related thereto, to which the Borrower is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of the Related Documents in effect as of any date on which this representation and warranty is made, and to which the Borrower is a party, has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower enforceable against the Borrower in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated by the Related Documents, and the fulfillment of or compliance with the terms and conditions of the Related Documents, will not (i) conflict with the Borrower's Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under, any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any resolution, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower with respect to the Water System, other than Permitted Liens.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by any of the Related Documents or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of any of the Related Documents, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. Except as set forth in **Schedule VII (Litigation)**, as of the Effective Date, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or otherwise affecting the Borrower with respect to the Water System (including the Project) or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or otherwise affecting the Borrower or with respect to the Water System (including the Project), that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending or threatened against or affecting any of the Principal Project Parties, except for matters arising after the Effective Date that could not reasonably be expected to (i) result in a Material Adverse Effect or (ii) adversely affect the Borrower's ability to receive System Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model (or any Updated Financial Model, to the extent any Updated Financial Model has been approved by the WIFIA Lender). The Borrower is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The MIPA Documents establish, in favor of the WIFIA Lender for its benefit, the valid and binding Liens on the Collateral that they purport to create, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. Such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Collateral except for the Permitted Liens associated with Parity Obligations, and not *pari passu* with any obligations other than the Subordinated Obligations. The Borrower has duly and lawfully taken all actions required under this Agreement, the MIPA Documents, and applicable law for the pledge of the Collateral pursuant to and in accordance with the MIPA Documents and the security interests created in the Collateral have been duly perfected under applicable State law. The Borrower is not in breach of any covenants set forth in Section 14(a) (*Affirmative Covenants – Securing Liens*) or in the MIPA Documents with respect to the matters described in such Section or documents. As of the Effective Date and as of each other date this representation and warranty is made, (i) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, enforceable and perfected Lien on the Collateral (for the benefit of the WIFIA Lender and the other Secured Parties, and (ii) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any MIPA Documents or any instruments, certificates or financing statements in connection with the foregoing have been paid. Neither the attachment, perfection, validity, enforceability or priority of the security interest in the Collateral granted pursuant to the MIPA Documents is governed by Article 9 of the UCC.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered pursuant to Section 11(a)(iv) (*Conditions Precedent – Conditions Precedent to Effectiveness*).

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other Related Documents are true, correct and complete, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct and complete as of such earlier date).

(j) Compliance with Federal Requirements. The Borrower, and each of its contractors and subcontractors at all tiers with respect to the Project, has complied with all applicable federal laws, rules, regulations and requirements, including (i) 40 U.S.C. §§3141-3144, 3146, and 3147 and regulations relating thereto (Davis-Bacon Act Requirements), (ii) 33 U.S.C. §3914 (relating to American iron and steel products), and (iii) those set forth in **Exhibit E** (*Compliance With Laws*). To ensure such compliance, the Borrower has included in all contracts with respect to the Project requirements that its contractors shall comply with applicable federal laws, rules, regulations, and requirements set forth in this Section 12(j) and follow applicable federal guidance, and has required that the contractors incorporate in all subcontracts (and cause all subcontractors to include in lower tier subcontracts) such terms and conditions as are required

to be incorporated therein by applicable federal laws, rules, regulations and requirements set forth in this Section 12(j). With respect to the Davis-Bacon Act Requirements, the Borrower has inserted in full in all contracts relating to the Project the contract clauses set forth in the Code of Federal Regulations, Title 29 Part 5.5, and required and ensured that its contractors have inserted such clauses in all subcontracts and also a clause requiring all subcontractors to include these clauses in any lower tier subcontracts.

(k) Credit Ratings. Any Outstanding Parity Obligations with respect to the Project have received a public Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, the WIFIA Loan and Outstanding Subordinated Obligations have received a public rating from at least two (2) Nationally Recognized Rating Agencies, written evidence of such ratings has been provided to the WIFIA Lender prior to the Effective Date and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(l) No Defaults. No Default or Event of Default, and no default or event of default by the Borrower under any other Related Document, has occurred and is continuing.

(m) Governmental Approvals. All Governmental Approvals required as of the Effective Date and required as of any subsequent date on which this representation is made (or deemed made) for the undertaking and completion by the Borrower of the Project, and for the operation and management thereof, have been obtained or effected and are in full force and effect and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(n) Principal Project Contracts. Attached as **Schedule 12(n)** (*Principal Project Contracts*) is a list of the Existing Principal Project Contracts and all Additional Principal Project Contracts that are expected to be entered into, in each case including the name of the contract, the parties thereto, the effective date (or the expected effective date, as applicable) and a description thereof. Each Principal Project Contract is in full force and effect and all conditions precedent to the obligations of the respective parties under each Principal Project Contract have been satisfied. To the extent requested by the WIFIA Lender pursuant to Section 14(b)(iii) (*Affirmative Covenants – Copies of Documents*), the Borrower has delivered to the WIFIA Lender a fully executed, complete and correct copy of each Principal Project Contract (including in each case all exhibits, schedules and other attachments), including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any such Principal Project Contract.

(o) Information. The information furnished by or on behalf of the Borrower to the WIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements furnished by or on behalf of the Borrower (including the Base Case Financial Model, any Updated Financial Model, and the assumptions therein), except that each of the Base Case Financial Model and any Updated Financial Model (i) is based on assumptions that were reasonable in all material respects when made, (ii) was prepared in good faith and (iii) represents, in the opinion of the Borrower,

reasonable projections at the time made of the future performance of the Water System and the Project (it being understood that projections are not to be considered or regarded as facts and contain significant uncertainties and contingencies, many of which are beyond the control of the Borrower, that actual results may differ significantly from projections and that no representation is made with respect to the accuracy of such projections).

(p) OFAC; Anti-Corruption Laws. None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party (i) is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act and the Patriot Act; (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State; or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or (ii) is a Person (A) that is charged with, or has received notice from a Governmental Authority that it is under investigation for, any violation of any such laws; (B) that has been, since the date that is five (5) years prior to the Effective Date, convicted of any violation of, has been subject to criminal or civil penalties pursuant to, had any of its property seized or forfeited under, or has entered into any agreement with the Government or a state or local government related to violations of any such laws; (C) that is named on the list of “Specially Designated Nationals and Blocked Persons” maintained by OFAC (or any successor Government office or list), or any similar list maintained by the United States Department of State (or any successor Government office or list); (D) with whom any U.S. Person (as defined by the applicable OFAC regulations) is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law; or (E) with respect to a Principal Project Party, that is owned (other than any Person beneficially owning or holding five percent (5%) or less of the equity interests of such Principal Project Party), Controlled by, or affiliated with any Person identified in clause (A), (B), (C) or (D) of this clause (ii).

(q) Compliance with Law. The Borrower has, and, to the Borrower’s knowledge, each of the Borrower’s contractors and subcontractors at all tiers with respect to the Project has, complied in all material respects with, and has conducted (or caused to be conducted) its management and operation of the Water System (including the Project) in compliance in all material respects with, all applicable laws (other than Environmental Laws, which are addressed in Section 12(r) (*Representations and Warranties of Borrower – Environmental Matters*)), including those set forth on **Exhibit E** (*Compliance with Laws*), to the extent applicable. To the Borrower’s knowledge, each Principal Project Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws as they relate to the Project, including those set forth on **Exhibit E** (*Compliance with Laws*), to the extent applicable. No notices of violation of any applicable law from any Governmental Authority have been issued, entered or received by the Borrower, in each case in respect of the Project or the Water System, or, to the Borrower’s knowledge and solely in respect of the Project or any Principal Project Contract, any Principal Project Party, other than, in each case, notices of violations that are immaterial.

(r) Environmental Matters. Except as set forth in **Schedule 12(r)** (*Environmental Matters*), the Borrower is and, to the Borrower’s knowledge, each Principal Project Party is, in compliance with all laws applicable to the Water System (including the Project) relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise

emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species) and (vii) other environmental, health or safety matters, including all laws applicable to the Water System (including the Project) (collectively, the “**Environmental Laws**”). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as applicable, will be) in full force and effect. The Borrower has not received any written communication or notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that the Borrower is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and, to the Borrower’s knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by the Borrower with any such Environmental Law or Governmental Approval. The Borrower has provided to the WIFIA Lender all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the Borrower regarding the Borrower’s or the Project’s compliance with (A) Environmental Laws and (B) Governmental Approvals that are required for the Project and that relate to Environmental Laws.

(s) Sufficient Rights. The Borrower possesses either valid legal and beneficial title to, leasehold title in, or other valid legal rights with respect to the real property relating to the Water System (including the Project), in each case as is necessary and sufficient as of the date this representation is made for the construction, operation, maintenance and repair of the Water System (including the Project). As of any date on which this representation and warranty is made, the Principal Project Contracts then in effect and the Governmental Approvals that have been obtained and are then in full force and effect create rights in the Borrower sufficient to enable the Borrower to own, construct, operate, maintain and repair the Project and to perform its obligations under the Principal Project Contracts to which it is a party.

(t) Insurance. **Schedule 12(t) (Insurance)** lists all insurance policies of any nature maintained by the Borrower with respect to the Water System (including the Project), as well as a summary of the terms of each such policy. The Borrower is in compliance with all insurance obligations required under each Principal Project Contract and the other Related Documents as of the date on which this representation and warranty is made. To the extent the Borrower self-insures with respect to the Water System (including the Project), the Borrower’s self-insurance program is adequately funded and the Borrower has received an opinion from an accredited actuary within the last twelve (12) months, which opinion confirms that the Borrower’s self-insurance program is adequately funded.

(u) Financial Statements. Each Statement of Net Position, Statement of Revenues, Expenses & Changes in Net Position and Statement of Cash Flows (collectively, “**Financial Statements**”) delivered to the WIFIA Lender pursuant to Section 21(b) (*System Financial Planning and Reporting – Financial Statements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the Borrower with respect to the Water System as of the respective dates of the Statement of Net Position included therein and the results of operations of the Borrower with respect to the Water System for the respective periods covered by the Statements of Revenues, Expenses & Changes in Net Position included therein. Except as reflected in the Financial Statements, there are no liabilities or obligations of the Borrower with respect to the Water System of any nature whatsoever for the

periods to which the Financial Statements relate that are required to be disclosed in accordance with GAAP.

(v) Securities Laws. Under existing law, the WIFIA Note may be issued and sold without registration under the Securities Act of 1933, as amended, and any State blue sky laws.

(w) Taxes. The Borrower has (i) filed all tax returns required by applicable laws to be filed by the Borrower and (ii) paid all income taxes payable by it that have become due pursuant to such tax returns and all other material taxes and assessments payable by it that have become due (other than those taxes and assessments that it is contesting in good faith and by appropriate proceedings, for which adequate reserves have been established to the extent required by GAAP).

(x) Sufficient Funds. The amount of the WIFIA Loan, when combined with other funds committed for the development and construction of the Project as set forth under the various sources of funds in the Base Case Financial Model will be sufficient to carry out the Project, pay all Total Project Costs anticipated for the development and construction of the Project and to achieve Substantial Completion by the Projected Substantial Completion Date.

(y) Sovereign Immunity. The Borrower either has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any action to enforce the obligations of the Borrower under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the Borrower hereunder and thereunder, or, to the extent that the Borrower has such immunity, the Borrower has waived such immunity pursuant to Section 14(r) (*Affirmative Covenants – Immunity*).

(z) Patriot Act. The Borrower is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act and is in compliance with the Patriot Act in all material respects.

(aa) Federal Debt. The Borrower has no delinquent federal debt, including tax liabilities, unless the delinquency has been resolved with the appropriate federal agency in accordance with the standards of the Debt Collection Improvement Act of 1996.

(bb) Federal Assistance. The maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs, and the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed eighty percent (80%) of Total Project Costs.

(cc) Operations and Maintenance Plan. The Borrower has developed an operations and maintenance plan with respect to the Project that identifies sufficient revenues to operate, maintain, and repair the Project during its useful life.

(dd) Use of Proceeds. The Borrower has and will use the proceeds of the WIFIA Loan solely to pay Eligible Project Costs with respect to the Water System Portion of the Project.

Section 13. Representations and Warranties of WIFIA Lender. The WIFIA Lender represents and warrants that:

(a) Power and Authority. The WIFIA Lender has all requisite power and authority to make the WIFIA Loan and to perform all transactions contemplated by the Related Documents to which it is a party.

(b) Due Execution; Enforceability. The Related Documents to which it is a party have been duly authorized, executed and delivered by the WIFIA Lender, and are legally valid and binding agreements of the WIFIA Lender, enforceable in accordance with their terms.

(c) Officers' Authorization. The officers of the WIFIA Lender executing each of the Related Documents to which the WIFIA Lender is a party are duly and properly in office and fully authorized to execute the same on behalf of the WIFIA Lender.

Section 14. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Note and all of the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the WIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the WIFIA Lender waives compliance in writing:

(a) Securing Liens. The Borrower shall at any and all times, to the extent permitted by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the Liens on the Collateral (whether now existing or hereafter arising) granted to the WIFIA Lender for its benefit pursuant to the MIPA Documents, or intended so to be granted pursuant to the MIPA Documents, or which the Borrower may become bound to grant, and the Borrower shall at all times maintain the Collateral free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the MIPA Documents, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Collateral granted for the benefit of the WIFIA Lender against all claims and demands of all Persons whomsoever.

(b) Copies of Documents.

(i) The Borrower shall furnish to the WIFIA Lender (A) a copy of any final Issuing Instrument (and any official statement or similar document) prepared in connection with the incurrence of any Permitted Debt (including any Additional Obligations) or other indebtedness that has been approved by the WIFIA Lender pursuant to Section 15(a) (*Negative Covenants – Indebtedness*), in each case prior to the incurrence of any such Permitted Debt or such other indebtedness, (B) copies of any

continuing disclosure documents required to be disclosed pursuant to Rule 15c2-12 (17 CFR Part 240 § 240.15c2-12) of the Securities Exchange Act of 1934, as amended, prepared by or on behalf of the Borrower in connection with such Permitted Debt or such other indebtedness, in each case promptly following the preparation or filing thereof, and (C) promptly after the receipt thereof, copies of final ratings reports received from any Nationally Recognized Rating Agency that has provided, or is being requested to provide, a rating with respect to any Obligations of the Borrower that are or will be secured by or paid from the System Revenues. Except as otherwise agreed by the WIFIA Lender in writing, the Borrower will provide to the WIFIA Lender copies of such documentation within ten (10) Business Days following the Borrower's receipt or delivery thereof, as applicable. To the extent that (x) any of the documents required by this Section 14(b)(i) are posted to EMMA or the Borrower's website within the applicable time period required herein and (y) the Borrower provides notice of such posting to the WIFIA Lender, the Borrower shall be deemed to have satisfied such requirements.

(ii) The Borrower shall furnish to the WIFIA Lender (x) a copy of any SRF Omnibus Amendment executed by the Borrower no later than ten (10) Business Days after such execution and (y) a fully executed copy of such SRF Omnibus Amendment no later than ten (10) Business Days after receipt thereof by the Borrower.

(iii) If the WIFIA Lender requests a copy of any Principal Project Contract, the Borrower shall provide a copy of such Principal Project Contract (and any material amendment thereto), together with any related contracts, side letters or other understandings.

(iv) The Borrower shall furnish to the WIFIA Lender the financial statements required by Section 21(b) (*System Financial Planning and Reporting – Financial Statements*) in accordance with the terms thereof.

(c) Use of Proceeds. The Borrower shall use the proceeds of the WIFIA Loan solely to pay Eligible Project Costs with respect to the Water System Portion of the Project.

(d) Prosecution of Work; Verification Requirements.

(i) The Borrower shall diligently prosecute the work relating to the Project and complete the Project in accordance with the Construction Schedule, the terms of the Principal Project Contracts and the highest standards of the Borrower's industry.

(ii) The Borrower shall ensure that each Principal Project Party complies with all applicable laws and legal or contractual requirements with respect to any performance security instrument delivered by such Principal Project Party to the Borrower and shall ensure that any letter of credit provided pursuant to any Principal Project Contract meets the requirements therefor set forth in such Principal Project Contract.

(iii) The Borrower shall comply with the verification requirements set forth in 2 C.F.R. §§ 180.300 and 180.320 (relating to debarment).

(e) Operations and Maintenance. The Borrower shall (i) operate and maintain the Water System (including the Project) (A) in a reasonable and prudent manner and (B) in accordance with the MIPA Documents and (ii) maintain the Water System (including the Project) in good repair, working order and condition and in accordance with the requirements of all applicable laws and each applicable Related Document. The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the operation and maintenance of the Water System (including the Project).

(f) Insurance.

(i) The Borrower shall at all times procure and maintain or cause to be maintained insurance on the Water System with responsible insurers, or as part of a reasonable system of self-insurance that is adequately funded, in such amounts and against such risks (including damage to or destruction of the Water System) as are usually covered in connection with systems similar to the Water System. All policies of insurance required to be maintained herein shall, to extent reasonably obtainable, provide that the WIFIA Lender shall be given thirty (30) days' written notice of any intended cancellation thereof or reduction of coverage provided thereby. The Borrower shall certify to the WIFIA Lender annually on or before August 31 that it is in compliance with the insurance requirements hereunder.

(ii) The Borrower shall cause (A) its general liability insurance policy and (B) any insurance policy concerning or covering the construction of the Project to reflect the WIFIA Lender as an additional insured. During the Construction Period, such policies shall include any insurance policy under the Borrower's Owner-Controlled Insurance Program (OCIP) for the Project and any insurance policy maintained by any Principal Project Party in respect of any Principal Project Contract listed in Part B of **Schedule 12(n)** (*Principal Project Contracts*)). With respect to any such policy concerning or covering the construction of the Project, the Borrower shall deliver the relevant certificate of insurance evidencing the WIFIA Lender as additional insured prior to the commencement of construction of the Project.

(iii) Promptly upon request by the WIFIA Lender, the Borrower shall deliver to the WIFIA Lender copies of any underlying insurance policies obtained by or on behalf of the Borrower in respect of the Project. All such policies shall be available at all reasonable times for inspection by the WIFIA Lender, its agents and representatives.

(iv) The Borrower shall deliver to the WIFIA Lender within ten (10) Business Days after receipt thereof any certifications or opinions provided to the Borrower pursuant to the MIPA Documents with respect to the Borrower's program of insurance or self-insurance, if applicable.

(g) Notice.

(i) The Borrower shall, within ten (10) Business Days after the Borrower learns of the occurrence, give the WIFIA Lender notice of any of the following

events or receipt of any of the following notices, as applicable, setting forth details of such event:

(A) Substantial Completion: the occurrence of Substantial Completion, such notice to be provided in the form set forth in **Exhibit I** (*Form of Certificate of Substantial Completion*);

(B) Events of Default: any Default or Event of Default;

(C) Litigation: the filing of any litigation, suit or action, or the commencement of any proceeding, by and against the Borrower or with respect to the Water System (including the Project) before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against the Borrower that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim or any litigation set forth in **Schedule VII** (*Litigation*) hereto;

(D) Delayed Governmental Approvals: any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including the Projected Substantial Completion Date) set forth in the Construction Schedule, together with a written explanation of the reasons for such failure or delay and the Borrower's plans to remedy or mitigate the effects of such failure or delay;

(E) Environmental Notices: any material notice of violation or material change in finding under any Environmental Law related to the Water System or the Project or any material changes to the NEPA Determination;

(F) Principal Project Contract and MIPA Defaults: any material breach or default or event of default on the part of the Borrower or any other party under any Principal Project Contract or under any MIPA Document;

(G) Uncontrollable Force: the occurrence of any Uncontrollable Force that could reasonably be expected to materially and adversely affect the Water System or the Project;

(H) Ratings Changes: any change in the rating assigned to the Parity Obligations, the WIFIA Loan, any Subordinated Obligations or any Junior Obligations, in each case by any Nationally Recognized Rating Agency that has provided a rating on such indebtedness at the request of the Borrower;

(I) 2 C.F.R. § 180.350 Notices: any notification required pursuant to 2 C.F.R. § 180.350, whether attributable to a failure by the Borrower to disclose information previously required to have been disclosed or due to the Borrower or any of its principals meeting any of the criteria set forth in 2 C.F.R. § 180.335;

(J) Cooperative Agreement: any material breach or default on the part of the Borrower or any other party under, the withdrawal of any Stakeholder (as defined in the Cooperative Agreement) under, or any termination or delivery of a notice of termination of, the Cooperative Agreement; and

(K) Other Adverse Events: the occurrence of any other event or condition, including any notice of breach from a contract counterparty, that could reasonably be expected to result in a Material Adverse Effect.

(ii) The Borrower shall provide the WIFIA Lender with any further information reasonably requested by the WIFIA Lender from time to time concerning the matters described in Section 14(g)(i) (*Affirmative Covenants – Notice*).

(h) Remedial Action. Within thirty (30) calendar days after the Borrower learns of the occurrence of an event specified in Section 14(g)(i) (*Affirmative Covenants – Notice*) (other than Sections 14(g)(i)(A) (*Affirmative Covenants – Notice – Substantial Completion*) or 14(g)(i)(H) (*Affirmative Covenants – Notice – Ratings Changes*) (in the case of a ratings upgrade)), the Borrower's Authorized Representative shall provide a statement to the WIFIA Lender setting forth the actions the Borrower proposes to take with respect thereto.

(i) Maintain Legal Structure. The Borrower shall maintain its existence as a municipal corporation organized and existing under the Charter.

(j) Water Utility Fund; Permitted Investments. The Borrower shall maintain the Water Utility Fund in accordance with the terms hereof and the MIPA. All System Revenues received shall be deposited into the Water Utility Fund when and as received in trust for the benefit of the holders of the Obligations, subject to the application of System Revenues to Maintenance and Operation Costs of the Water System. Amounts on deposit in the Water Utility Fund shall be held uninvested or invested in Permitted Investments. Permitted Investments must mature or be redeemable at the election of the holder at such times as may be necessary to ensure that funds will be available within the applicable account to be applied towards the purpose for which the applicable account has been established.

(k) Rate Covenant.

(i) The Borrower shall, to the extent permitted by law, fix, prescribe and collect rates, fees and charges for the Water System during each Borrower Fiscal Year which are reasonable, fair and nondiscriminatory and which will be at least sufficient to yield, during each Borrower Fiscal Year, (A) Net System Revenues equal to at least one hundred ten percent (110%) of the Debt Service with respect to all Outstanding Obligations for such Borrower Fiscal Year and (B) Adjusted Net System Revenues equal to at least one hundred twenty percent (120%) of the Adjusted Debt Service with respect to all Outstanding Parity Obligations for such Borrower Fiscal Year (the "**Rate Covenant**"). The Borrower may make adjustments from time to time in such rates, fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees and charges then in effect unless the Net System

Revenues from such reduced rates, fees and charges will at all times be sufficient to meet the requirements of this Section 14(k)(i).

(ii) If the forecast furnished by the Borrower in the most recent Updated Financial Model delivered by the Borrower pursuant to Section 21(a) (*System Financial Planning and Reporting – Updated Financial Model*) demonstrates that projected Net System Revenues may be inadequate to satisfy the Rate Covenant for any Borrower Fiscal Year until the Final Maturity Date, or if the Borrower fails to satisfy the Rate Covenant for the most recently ended Borrower Fiscal Year, the Borrower shall (A) within thirty (30) days after request by the WIFIA Lender, engage the Professional Utility Consultant to review and analyze the operations of the Water System and recommend actions regarding revising the rates or changing the methods of operations, or any other actions to increase the Net System Revenues so as to satisfy the Rate Covenant, (B) cause the Professional Utility Consultant to issue its report, including any such recommended actions, no later than ninety (90) days following such engagement, and (C) either (1) implement the Professional Utility Consultant's recommendation or (2) undertake an alternative course of action after demonstrating to the WIFIA Lender's satisfaction that an alternative plan will generate an equivalent or greater increase to the Net System Revenues so as to satisfy the Rate Covenant.

(iii) The Borrower shall have in effect at all times rules and regulations for the payment of bills for Water Service. Such regulations may provide that where the Borrower furnishes water to the property receiving Water Service, the Water Service charges shall be collected together with the water rates upon the same bill providing for a due date and a delinquency date for each bill. In each case where such bill remains unpaid in whole or in part after it becomes delinquent, the Borrower may disconnect such premises from the Water System, and such premises shall not thereafter be reconnected to the Water System except in accordance with Borrower operating rules and regulations governing such situations of delinquency. To the extent permitted by law, the Borrower shall not permit any part of the Water System or any facility thereof to be used or taken advantage of free of charge by any authority, firm or person, or by any public agency (including the Government, the State and any city, county, district, political subdivision, public authority or agency thereof).

(l) Compliance with Law. The Borrower shall, and shall require its contractors and subcontractors at all tiers with respect to the Project to, comply in all material respects with all applicable federal, State and local laws, rules, regulations and requirements, including (i) 40 U.S.C. §§ 3141-3144, 3146, and 3147 (Davis-Bacon Act Requirements), (ii) 33 U.S.C. § 3914 (relating to American iron and steel products), and (iii) all items set forth in **Exhibit E** (*Compliance with Laws*). To ensure such compliance, the Borrower shall include in all contracts with respect to the Project requirements that its contractor(s) shall comply with applicable federal laws, rules, regulations, and requirements set forth in this Section 14(l) and follow applicable federal guidance, and shall require that the contractor(s) incorporate in all subcontracts (and cause all subcontractors to include in all lower tier subcontracts) such terms and conditions as are required to be incorporated therein by applicable federal laws, rules, regulations and requirements set forth in this Section 14(l). With respect to the Davis-Bacon Act Requirements, the Borrower shall insert in full in all contracts relating to the Project the contract

clauses set forth in the Code of Federal Regulations, Title 29 Part 5.5, and require and ensure that its contractor(s) insert such clauses in all subcontracts with respect to the Project and also a clause requiring all subcontractors to include these clauses in any lower tier subcontracts.

(m) Material Obligations; Liens. The Borrower shall pay its material obligations payable from System Revenues promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon the Water System or upon the System Revenues or other assets of the Water System, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon the Water System or any part thereof or on the System Revenues or the Collateral; provided that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(n) Hedging.

(i) As a condition to the issuance of any Additional Parity Obligations or Subordinated Obligations that constitute Variable Rate Indebtedness (other than Variable Rate Indebtedness (x) that is commercial paper or (y) the proceeds of which are applied to repay reimbursement obligations in respect of any letter of credit issued to support commercial paper Obligations), to the extent that such issuance would cause the principal amount of all Outstanding Variable Rate Indebtedness to exceed twenty-five percent (25%) of the principal amount of all Outstanding Parity Obligations and Subordinated Obligations, the Borrower shall enter into a Qualified Hedge with respect to such Additional Obligations and shall maintain such Qualified Hedge in place until the earliest to occur of (i) the date on which such Additional Obligations no longer bear interest at a Variable Interest Rate, (ii) the date on which the aggregate principal amount of all Outstanding Variable Rate Indebtedness no longer exceeds twenty-five percent (25%) of the aggregate principal amount of all Outstanding Parity Obligations and Subordinated Obligations, (iii) the date such Additional Obligations have been repaid in full in cash and (iv) the Final Maturity Date. Each such Qualified Hedge must have an aggregate stated notional amount of at least ninety-eight percent (98%) and not more than one hundred two percent (102%) of the aggregate principal amount of such Additional Obligations projected to be Outstanding until the earliest to occur of (w) the date on which such Additional Obligations no longer bear interest at a Variable Interest Rate, (x) the date on which the aggregate principal amount of all Outstanding Variable Rate Indebtedness no longer exceeds twenty-five percent (25%) of the aggregate principal amount of all Outstanding Parity Obligations and Subordinated Obligations, (y) the date such Additional Obligations have been repaid in full in cash and (z) the Final Maturity Date. Each such Qualified Hedge shall have a payment profile that is reasonably consistent with the expected draw and repayment schedule of such Additional Obligations. Each such Qualified Hedge shall have a stated maturity or termination date not earlier than the earliest to occur of (A) the date on which such Additional Obligations no longer bear interest at a Variable Interest Rate, (B) the date on which the aggregate

principal amount of all Outstanding Variable Rate Indebtedness no longer exceeds twenty-five percent (25%) of the aggregate principal amount of all Outstanding Parity Obligations and Subordinated Obligations, (C) the date such Additional Obligations have been repaid in full in cash and (D) the Final Maturity Date.

(ii) Each Qualified Hedge required under this Section 14(n) shall provide for a fixed interest rate resulting in fixed payment amounts payable by the Borrower to the Qualified Hedge Provider. The Borrower's obligations to pay Hedging Obligations and Hedging Termination Obligations, in each case pertaining to any Additional Obligations, shall be from the sources and in the priority specified in the MIPA Documents. The Borrower shall ensure that, as of the date following the termination date of any Qualified Hedge required under this Section 14(n) that for any reason terminates before the earliest to occur of (i) the maturity date of the Variable Rate Indebtedness subject to such Qualified Hedge, (ii) the date on which the aggregate principal amount of all Outstanding Variable Rate Indebtedness no longer exceeds twenty-five percent (25%) of the aggregate principal amount of all Outstanding Parity Obligations and Subordinated Obligations and (iii) the Final Maturity Date, (A) a new Qualified Hedge is in full force and effect or (B) the Variable Rate Indebtedness have been converted to a fixed rate, in each case in accordance with this Agreement and the MIPA Documents.

(iii) The Borrower shall neither terminate (other than Permitted Hedging Terminations), transfer, nor consent to any transfer (other than to a Qualified Hedge Provider) of any existing Qualified Hedge required under this Section 14(n) without the WIFIA Lender's prior written consent as long as the Borrower is required to maintain a Qualified Hedge pursuant to this Agreement.

(iv) With respect to any Qualified Hedge required under this Section 14(n), if at any time a Hedging Bank no longer satisfies the requirements for a Qualified Hedge Provider, the Borrower shall, within ten (10) days (or such lesser number of days required by the applicable Hedging Agreement, including any credit support annex thereto) after the date on which such Hedging Bank failed to qualify as a Qualified Hedge Provider, either (A) cash collateralize the mark-to-market value of the Hedging Termination Obligations (in accordance with the credit support annex or similar requirements of the applicable Hedging Agreement) or provide a guarantee for such amount from an entity with an Acceptable Credit Rating, or (B) cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider, whether by means of a transfer of the disqualified Hedging Bank's Hedging Agreement to a Qualified Hedge Provider or by means of a termination of such disqualified Hedging Bank's Hedging Agreement and replacement thereof by a Hedging Agreement with a Qualified Hedge Provider on terms and conditions that satisfy the requirements of this Section 14(n); provided that if the disqualified Hedging Bank's highest credit rating from any Nationally Recognized Rating Agency is less than 'A-', 'A3' or the equivalent, clause (A) shall not apply and the Borrower shall be required to cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider pursuant to clause (B).

(o) SAM Registration. The Borrower shall (i) obtain and maintain an active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry) prior to the Effective Date and provide such registration information to the WIFIA Lender and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the WIFIA Lender evidence of such active registration status with no active exclusions reflected in such registration, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the WIFIA Lender under this Agreement have been irrevocably paid in full in cash.

(p) DUNS Number. The Borrower shall obtain from Dun & Bradstreet (or a successor entity) a Data Universal Numbering System Number (a “**DUNS Number**”) prior to the Effective Date and provide such number to the WIFIA Lender and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the WIFIA Lender evidence of the continuing effectiveness of such DUNS Number, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the WIFIA Lender under this Agreement have been irrevocably paid in full in cash.

(q) Events of Loss; Loss Proceeds. If an Event of Loss occurs with respect to the Water System (including the Project) or any part thereof, the Borrower (i) shall (A) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such Event of Loss and (ii) shall apply all Net Loss Proceeds in respect of such Event of Loss to repair, reconstruct and/or replace the portion of the Water System in respect of which the applicable Net Loss Proceeds were received. The Borrower shall begin such repair, reconstruction or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such repair, reconstruction or replacement as expeditiously as possible, and shall pay out of such Net Loss Proceeds all costs and expenses in connection with such repair, reconstruction or replacement so that the same shall be completed and the Water System shall be free and clear of all claims and Liens. If such Net Loss Proceeds exceed the costs of such repair, reconstruction or replacement, then the excess Net Loss Proceeds shall be deposited in the Water Utility Fund and be available for other proper uses of funds deposited in the Water Utility Fund. If such Net Loss Proceeds are insufficient to enable the Borrower to restore or replace the damaged portions of the Water System, the Borrower shall provide additional funds for that purpose.

(r) Immunity. To the fullest extent permitted by applicable law, the Borrower agrees that it will not assert any immunity (and hereby waives any such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the obligations of the Borrower under this Agreement or any other WIFIA Loan Document.

Section 15. Negative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Note and all of the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the WIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the WIFIA Lender waives compliance in writing:

(a) Indebtedness. The Borrower shall not issue any Additional Obligations unless the conditions described in this Section 15(a) are satisfied.

(i) The Borrower may not create, incur or suffer to exist (A) any Project Parity Obligations, (B) any Obligations the payments of which are senior or prior in right to the payment by the Borrower of Parity Obligations, (C) any Obligations (other than Obligations listed in Part II of **Schedule III** (*Existing Indebtedness*)) that are secured by a Lien on the Water Utility Fund or (D) any Project Obligations that are secured by a Lien on any assets or property of the Borrower other than the Collateral.

(ii) The Borrower may (A) without regard to subsection (iii) below, at any time enter into or create an obligation or commitment which is a Reserve Fund Obligation, provided that the Obligation to which the Reserve Fund Obligation relates is permitted to be entered into under the terms of this Section 15(a), or (B) issue any Interim Financing, provided that the Interim Financing is permitted to be entered into under the terms of this Section 15(a).

(iii) Subject to Section 15(a)(i), the Borrower may at any time and from time to time issue or create any Additional Parity Obligations or Additional Subordinated Obligations, provided that:

(A) there shall not have occurred and be continuing an Event of Default under the terms of the MIPA, any Issuing Instrument (including this Agreement) or any Credit Support Instrument that will not be cured by the application of the proceeds of the Additional Parity Obligations or Additional Subordinated Obligations;

(B) with respect to any Additional Parity Obligations, the Borrower obtains or provides a certificate or certificates, prepared by the Borrower or at the Borrower's option by a Consultant, showing that:

(1) the Net System Revenues as shown by the books of the Borrower for any twelve (12)-consecutive-month period within the eighteen (18) consecutive months ending immediately prior to the incurring of such Additional Parity Obligations shall have amounted to or exceeded the greater of (I) at least 1.20 times the Maximum Annual Debt Service on all Parity Obligations to be Outstanding immediately after the issuance of the proposed Additional Parity Obligations or (II) at least 1.10 times the Maximum Annual Debt Service on all Obligations to be Outstanding immediately after the issuance of the proposed Additional Parity Obligations. For purposes of preparing the certificate or certificates described above, the Borrower or its Consultant may rely upon audited financial statements, or, if audited financial statements for the

period are not available, financial statements prepared by the Borrower that have not been subject to audit by an Independent Certified Public Accountant; or

(2) the estimated Net System Revenues for the five Borrower Fiscal Years following the earlier of (I) the end of the period during which interest on those Additional Parity Obligations is to be capitalized or, if no interest is to be capitalized, the Borrower Fiscal Year in which the Additional Parity Obligations are issued, or (II) the date on which substantially all new components to be financed with such Additional Parity Obligations are expected to commence operations, will be at least equal to 1.20 times the Maximum Annual Debt Service for all Parity Obligations which will be Outstanding immediately after the issuance of the proposed Additional Parity Obligations;

(C) with respect to any Additional Subordinated Obligations, the Borrower obtains or provides a certificate or certificates, prepared by the Borrower or at the Borrower's option by a Consultant (for the purposes of the preparation of which the Borrower and its Consultant(s) may rely upon audited financial statements or, if audited financial statements for the period are not available, financial statements prepared by the Borrower that have not been subject to audit by an Independent Certified Public Accountant) showing that:

(1) the Net System Revenues as shown by the books of the Borrower for any twelve (12)-consecutive-month period within the eighteen (18) consecutive months ending immediately prior to the incurring of such Additional Subordinated Obligations shall have amounted to at least 1.10 times the Maximum Annual Debt Service on all Obligations to be Outstanding immediately after the issuance of the proposed Additional Subordinated Obligations; or

(2) the estimated Net System Revenues for the five Borrower Fiscal Years following the earlier of (I) the end of the period during which interest on those Additional Subordinated Obligations is to be capitalized or, if no interest is to be capitalized, the Borrower Fiscal Year in which the Additional Subordinated Obligations are issued; or (II) the date on which substantially all new facilities financed with such Additional Subordinated Obligations are expected to commence operations, will be at least equal to 1.10 times the Maximum Annual Debt Service on all Obligations to be Outstanding immediately after the issuance of the proposed Additional Subordinated Obligations; and

(D) to the extent any Obligations include a ratings requirement with respect to the issuance of additional obligations, such ratings requirement shall apply to the issuance of the Additional Parity Obligations or Additional Subordinated Obligations, as applicable, except in the case where such Additional Parity Obligations or Additional Subordinated Obligations are held by the SWRCB under any SRF Loan Agreement.

(iv) For purposes of the computations to be made as described in Section 15(a)(iii)(B)(2) (*Negative Covenants – Indebtedness*) or Section 15(a)(iii)(C)(2) (*Negative Covenants – Indebtedness*), the determination of Net System Revenues:

(A) may take into account any increases in rates and charges which relate to the Water System and which have been approved by the City Council, and shall take into account any reduction in such rates and charges which have been approved by the City Council, which will, for purposes of the test described in Section 15(a)(iii)(B)(2) (*Negative Covenants – Indebtedness*) or Section 15(a)(iii)(C)(2) (*Negative Covenants – Indebtedness*), be effective during a Borrower Fiscal Year ending within the five-Borrower Fiscal Year period for which such estimate is being made; and

(B) may take into account an allowance for any estimated increase in such Net System Revenues from any revenue-producing additions or improvements to or extensions of the Water System to be made with the proceeds of such additional indebtedness or with the proceeds of Obligations previously issued (or, with respect to Additional Subordinated Obligations, with cash contributions made or to be made by the Borrower), all in an amount equal to the estimated additional average annual Net System Revenues to be derived from such additions, improvements and extensions during the five-Borrower Fiscal Year period contemplated by Section 15(a)(iii)(B)(2) (*Negative Covenants – Indebtedness*) or Section 15(a)(iii)(C)(2) (*Negative Covenants – Indebtedness*), all as shown by such certificate of the Borrower or its Consultant, as applicable; and

(C) for the period contemplated by Section 15(a)(iii)(B)(2) (*Negative Covenants – Indebtedness*) or Section 15(a)(iii)(C)(2) (*Negative Covenants – Indebtedness*), (1) with respect to Additional Parity Obligations, Maintenance and Operation Costs of the Water System shall initially be deemed to be equal to such costs for the twelve (12) consecutive months immediately prior to incurring such Additional Parity Obligations for the first Borrower Fiscal Year of the five-Borrower Fiscal Year period, or (2) with respect to Additional Subordinated Obligations, shall initially include Maintenance and Operation Costs of the Water System in an amount equal to such costs for any twelve (12)-consecutive month period within the twenty-four (24) consecutive months ending immediately prior to incurring such Additional Subordinated Obligations for the first Borrower Fiscal Year of the five-Borrower Fiscal Year period; but, in each case, adjusted if deemed necessary by the Borrower or its Consultant, as applicable, for any increased Maintenance and Operations Costs of the Water System which are, in the judgment of the Borrower or such Consultant, as applicable, essential to maintaining and operating the Water System and which will occur during any Borrower Fiscal Year ending within the period contemplated by Section 15(a)(iii)(B)(2) (*Negative Covenants – Indebtedness*) or Section 15(a)(iii)(C)(2) (*Negative Covenants – Indebtedness*).

(v) The certificate or certificates described above in Section 15(a)(iii)(B)(2) (*Negative Covenants – Indebtedness*) or Section 15(a)(iii)(C)(2) (*Negative Covenants – Indebtedness*) shall not be required if the Additional Parity Obligations or Additional Subordinated Obligations being issued are for the purpose of refunding (A) any then-Outstanding Parity Obligations or Subordinated Obligations if at the time of the issuance of such Additional Parity Obligations or Additional Subordinated Obligations a certificate of an Authorized City Representative shall be delivered showing that (1) with respect to Additional Parity Obligations, the sum of Adjusted Debt Service on all Parity Obligations Outstanding for all remaining Borrower Fiscal Years after the

issuance of the refunding Additional Parity Obligations will not exceed the sum of Adjusted Debt Service on all Parity Obligations Outstanding for all remaining Borrower Fiscal Years prior to the issuance of such refunding Additional Parity Obligations, or (2) with respect to Additional Subordinated Obligations, the sum of Debt Service for all remaining Borrower Fiscal Years on all Parity Obligations and Subordinated Obligations Outstanding after the issuance of the refunding Additional Subordinated Obligations will not exceed the sum of Debt Service for all remaining Borrower Fiscal Years on all Parity Obligations and Subordinated Obligations Outstanding prior to the issuance of such refunding Additional Subordinated Obligations; or (B) then-Outstanding Balloon Indebtedness, Tender Indebtedness or Variable Rate Indebtedness, but only to the extent that the principal amount of such indebtedness has been put, tendered to or otherwise purchased pursuant to a standby purchase agreement or other liquidity facility relating to such indebtedness.

(vi) The Borrower shall not issue any Additional Junior Obligations unless such Additional Junior Obligations are fully subordinated in right of payment and in right of security in the Collateral to the Obligations in respect of the WIFIA Loan, including with respect to payment from revenues and reserves and payment upon default of the applicable Obligations.

(vii) Except for Permitted Debt, the Borrower shall not without the prior written consent of the WIFIA Lender issue or incur indebtedness of any kind secured by or payable from all or any portion of the System Revenues; provided that, except as permitted by Section 15(a)(iii)(A) (*Negative Covenants – Indebtedness*), the Borrower shall not incur any indebtedness of any kind payable from, secured or supported by the Collateral, including Permitted Debt, without the prior written consent of the WIFIA Lender, while an Event of Default has occurred and is continuing.

(viii) Upon the incurrence of Permitted Debt described in clauses (c), (d) or (e) of the definition thereof, the Borrower shall provide to the WIFIA Lender a certificate signed by the Borrower's Authorized Representative, (A) specifying the closing date with respect to such indebtedness and (B) confirming that such proposed indebtedness is authorized pursuant to this Section 15(a) and satisfies the applicable requirements under the definitions of "Permitted Debt," and "Additional Parity Obligations," "Additional Subordinated Obligations" or "Additional Junior Obligations," as applicable.

(ix) To the extent any Permitted Debt consists of Tender Indebtedness that includes a tender option at the election of the holders thereof, the Borrower must maintain a Credit Support Instrument that will pay any amounts payable by the Borrower in respect of such Tender Indebtedness.

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the WIFIA Lender, either (i) extinguish or impair the Liens on the Collateral granted to the Collateral Agent pursuant to the Collateral Agency Agreement (for the benefit of the WIFIA Lender and other Owners of other Secured Obligations), (ii) amend, modify or supplement any Related Document

in a manner that could adversely affect the WIFIA Lender in connection with the WIFIA Loan or which could reasonably be expected to have a Material Adverse Effect, (iii) waive or permit a waiver of any provision of any Related Document in a manner that could adversely affect the WIFIA Lender in connection with the WIFIA Loan or which could reasonably be expected to have a Material Adverse Effect, (iv) assign, terminate or replace any WIFIA Loan Document, (v) assign, terminate or replace any Related Document (other than any WIFIA Loan Document) in a manner that could adversely affect the WIFIA Lender in connection with the WIFIA Loan or which could reasonably be expected to have a Material Adverse Effect (subject to Section 19(a)(iii) (*Project Events of Default and Remedies – Termination Under Principal Project Contracts*)). Except as otherwise agreed by the WIFIA Lender in writing, the Borrower will provide to the WIFIA Lender (x) copies of any proposed amendments, modifications, replacements of, or supplements to any Related Document at least thirty (30) days prior to the effective date thereof and (y) complete, correct and fully executed copies of any amendment, modification or supplement to any Related Document within five (5) Business Days after execution thereof.

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on the Collateral or the Borrower's rights therein. The Borrower shall not collaterally assign any of its rights under or pursuant to any Principal Project Contract and shall not permit a Lien to encumber the Borrower's rights or privileges under any Principal Project Contract, unless pursuant to the MIPA Documents in favor of all Secured Parties.

(d) Restricted Payments and Transfers. The Borrower shall not permit System Revenues or other assets of the Water System, or any funds in any accounts held under the MIPA or in any other fund or account held by or on behalf of the Borrower in respect of the Water System, to be paid or transferred or otherwise applied for purposes other than ownership, operation or maintenance of the Water System, except with the consent of the WIFIA Lender, which consent shall be in the WIFIA Lender's sole discretion.

(e) No Prohibited Sale, Lease or Assignment.

(i) The Borrower will not sell, lease or otherwise dispose of the Water System or any part thereof essential to the proper operation of the Water System or to the maintenance of the System Revenues, except as provided in Section 15(e)(ii) (*Negative Covenants – No Prohibited Sale, Lease or Assignment*) and the delegation by the Borrower of its right to be an operator with respect to the Water System under Section 6.19 of the MIPA. Further, the Borrower will not, except as otherwise provided herein, enter into any agreement or lease which impairs the operation of the Water System or any part thereof necessary to secure adequate Net System Revenues for the payment of the Parity Obligations or which would otherwise impair the rights of the Collateral Agent or the WIFIA Lender with respect to the System Revenues or the operation of the Water System.

(ii) The Borrower may dispose of any of the works, plant properties, facilities or other parts of the Water System, or any real or personal property comprising

a part of the Water System, only upon the approval of the City Council and consistent with one or more of the following:

(A) the Borrower in its discretion may carry out such a disposition if the facilities or property being disposed of are not material to the operation of the Water System, or shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Water System or are no longer necessary, material or useful to the operation of the Water System, and if such disposition will not materially reduce the Net System Revenues and if the proceeds of such disposition are deposited in the Water Utility Fund;

(B) the Borrower in its discretion may carry out such a disposition if the Borrower receives from the acquiring party an amount equal to the fair market value of the portion of the Water System disposed of. As used in this clause (B), “fair market value” means the most probable price that the portion being disposed of should bring in a competitive and open market under all conditions requisite to a fair sale, the willing buyer and willing seller each acting prudently and knowledgeably, and assuming that the price is not affected by coercion or undue stimulus. The proceeds of the disposition shall be used (x) first, promptly to redeem, or irrevocably set aside for the redemption of, Parity Obligations, and second, promptly to redeem, or irrevocably set aside for the redemption of, Subordinated Obligations, and/or (y) to provide for a part of the cost of additions to and betterments and extensions of the Water System; provided that before any such disposition under this clause (B), the Borrower must obtain:

(1) a certificate of an Independent Engineer to the effect that upon such disposition and the use of the proceeds of the disposition as proposed by the Borrower, the remaining portion of the Water System will retain its operational integrity and the estimated Net System Revenues for the five Borrower Fiscal Years following the Borrower Fiscal Year in which the disposition is to occur will be equal to or exceed the greater of (I) at least 1.20 times the Adjusted Debt Service on all Outstanding Parity Obligations during the five Borrower Fiscal Years following the Borrower Fiscal Year in which the disposition is to occur, or (II) at least 1.10 times the Debt Service on all Outstanding Obligations during the first five Borrower Fiscal Years following the Borrower Fiscal Year in which the disposition is to occur, taking into account in each case (a) the reduction in revenue resulting from the disposition, (b) the use of any proceeds of the disposition for the redemption of Parity Obligations and/or Subordinated Obligations, (c) the Independent Engineer’s estimate of revenue from customers anticipated to be served by any additions to and betterments and extensions of the Water System financed in part by the proceeds of the disposition, and (d) any other adjustment permitted in the preparation of a certificate under Section 15(a)(iii)(B)(2) (*Negative Covenants – Indebtedness*); and

(2) confirmation from the Nationally Recognized Rating Agencies then rating the Outstanding Parity Obligations to the effect that the rating then in effect on any Outstanding Parity Obligations will not be reduced or withdrawn upon such disposition.

(iii) The Borrower will operate the Water System in an efficient and economic manner, provided that the Borrower may remove from service on a temporary or permanent basis such part or parts of the Water System as the Borrower shall determine, so long as (A) Net System Revenues are at least equal to the greater of (1) one hundred ten percent (110%) of all Obligations payable in the then current Borrower Fiscal Year or (2) one hundred twenty percent (120%) of Adjusted Debt Service for the then-current Borrower Fiscal Year, after giving effect to any defeasance of Obligations occurring incident to such removal, and for each Borrower Fiscal Year thereafter to and including the Borrower Fiscal Year during which the last Installment Payment is due, after giving effect to such defeasance, as evidenced by (I) an Engineer's Report on file with the Borrower, or (II) a certificate of the Borrower, and (B) the value of the parts of the Water System to be so removed is less than five percent (5%) of the total Water System assets, each as shown on the most recent audited financial statements that include the Water Utility Fund.

(f) Fiscal Year. The Borrower shall not at any time adopt any fiscal year other than the Borrower Fiscal Year, except with thirty (30) days' prior written notice to the WIFIA Lender.

(g) No Defeasance of WIFIA Loan. The Borrower shall not defease the WIFIA Loan pursuant to the MIPA or otherwise without the prior written consent of the WIFIA Lender.

(h) OFAC Compliance. The Borrower shall not (i) violate (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act and the Patriot Act, (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State, or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or (ii) be a Person (A) that is charged with, or that has received notice from a Governmental Authority that it is under investigation for, any violation of any such laws, (B) that is convicted of any violation of, is subject to civil or criminal penalties pursuant to, has any of its property seized or forfeited under, or enters into any agreement with the Government or a state or local government related to violations of, any such laws, (C) that is named on the list of "Specially Designated Nationals and Blocked Persons" maintained by OFAC (or any successor Government office or list), or any similar list maintained by the United States Department of State (or any successor Government office or list), (D) with whom any U.S. Person (as defined in the applicable OFAC regulations) is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law, (E) that is owned, Controlled by, or affiliated with any Person identified in clause (A), (B), (C) or (D) of this clause (ii), or (F) that is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, anti-money laundering and anti-corruption laws of the United States of America and the jurisdiction where the Person resides, is domiciled or has its principal place of business. The Borrower shall not knowingly make a payment, directly or indirectly, to any Principal Project Party that has violated any of the laws referenced in clause (i) of the preceding sentence or that is a Person described in clause (ii) of the preceding sentence.

(i) Hedging. Other than interest rate hedging transactions expressly permitted hereunder, the Borrower shall not enter into any swap or hedging transaction, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, commodity swap transactions, currency swap transactions, or any other hedging transaction, in each case to the extent secured by or payable from all or any portion of the System Revenues.

Section 16. Indemnification. The Borrower shall, to the extent permitted by law, indemnify the WIFIA Lender and any official, employee, agent or representative of the WIFIA Lender (each such Person being herein referred to as an “**Indemnatee**”) against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnatee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnatee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the WIFIA Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters, in each case arising out of or in direct relation to the Project; provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnatee. In case any action or proceeding is brought against an Indemnatee by reason of any claim with respect to which such Indemnatee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided that such Indemnatee shall have the right to retain its own counsel, at the Borrower’s expense, and such participation by the Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnatee. Any Indemnatee against whom any indemnity claim contemplated in this Section 16 is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnatee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 16. Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnatee. To the extent permitted by applicable law, neither the Borrower nor the WIFIA Lender shall assert, and each of the Borrower and the WIFIA Lender hereby waives, any claim against any Indemnatee or the Borrower, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the other transactions contemplated hereby and thereby, the WIFIA Loan or the use of the proceeds thereof; provided that nothing in this sentence shall limit the Borrower’s indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnatee is entitled to indemnification hereunder. All amounts due to any Indemnatee under this Section 16 shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section 16 shall survive the payment or prepayment in full or transfer of the WIFIA Loan, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 16) or consents in respect hereof or thereof, any Event of Default, and any

workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

Section 17. Sale of WIFIA Loan. The WIFIA Lender shall not sell the WIFIA Loan at any time prior to the Substantial Completion Date. After such date, the WIFIA Lender may sell the WIFIA Loan to another entity or reoffer the WIFIA Loan into the capital markets only in accordance with the provisions of this Section 17. Such sale or reoffering shall be on such terms as the WIFIA Lender shall deem advisable. However, in making such sale or reoffering the WIFIA Lender shall not change the terms and conditions of the WIFIA Loan without the prior written consent of the Borrower in accordance with Section 30 (*Amendments and Waivers*). The WIFIA Lender shall provide, at least sixty (60) days prior to any sale or reoffering of the WIFIA Loan, written notice to the Borrower of the WIFIA Lender's intention to consummate such a sale or reoffering; provided that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section 17 shall not (a) obligate the WIFIA Lender to sell or (b) provide the Borrower with any rights or remedies in the event the WIFIA Lender, for any reason, does not sell the WIFIA Loan.

Section 18. System Events of Default and Remedies.

(a) A “**System Event of Default**” shall exist under this Agreement if any of the following occurs:

(i) Payment Default. The Borrower shall fail to pay any of the principal amount of or interest on the WIFIA Loan (including WIFIA Debt Service required to have been paid pursuant to the provisions of Section 9 (*Payment of Principal and Interest*) or any mandatory prepayment required pursuant to the provisions of Section 10 (*Prepayment*)) when and as the payment thereof shall be required under this Agreement or the WIFIA Note or on the Final Maturity Date (each such failure, a “**Payment Default**”).

(ii) Covenant Default. The Borrower shall fail to observe or perform any covenant, agreement or obligation of the Borrower under this Agreement, the WIFIA Note or any other WIFIA Loan Document (other than in the case of any Payment Default or any Project Event of Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower from the WIFIA Lender of written notice thereof or (B) the Borrower's knowledge of such failure; provided that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no System Event of Default shall be deemed to have occurred or be continuing under this Section 18(a)(ii), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured and (y) such failure is cured within one hundred eighty (180) days after the date specified in either (A) or (B) above, as applicable.

(iii) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the WIFIA Loan

Documents (or in any certificates delivered by the Borrower in connection with the WIFIA Loan Documents) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided that no System Event of Default shall be deemed to have occurred under this Section 18(a)(iii) if and so long as (A) such misrepresentation is not intentional, (B) such misrepresentation is not a misrepresentation in respect of Section 12(h) (*Representations and Warranties of Borrower – No Debarment*), Section 12(j) (*Representations and Warranties of Borrower – Compliance with Federal Requirements*), Section 12(p) (*Representations and Warranties of Borrower – OFAC; Anti-Corruption Laws*) and Section 12(z) (*Representations and Warranties of Borrower – Patriot Act*), (C) in the reasonable determination of the WIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect, (D) in the reasonable determination of the WIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured, (E) the underlying issue giving rise to the misrepresentation is cured by the Borrower within thirty (30) days after the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation, and (F) the Borrower diligently pursues such cure during such thirty (30) day period.

(iv) Acceleration of Parity Obligations or Subordinated Obligations. Any acceleration shall occur of the maturity of any Parity Obligation or any Subordinated Obligation, any event or condition shall occur that enables the holder of any Parity Obligation or any Subordinated Obligation, or any Person acting on such holder's behalf, to accelerate the maturity thereof, or any Parity Obligation or any Subordinated Obligation shall not be paid in full upon the final maturity thereof.

(v) Cross Default to MIPA Documents. Any default shall occur in respect of the performance of any covenant, agreement or obligation of the Borrower under the MIPA Documents, and such default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in the MIPA Documents with respect to such default (each an “**Other Indebtedness Covenant Default**”), and, in the case of any such Other Indebtedness Covenant Default, the Borrower shall have failed to cure such Other Indebtedness Covenant Default or to obtain an effective written waiver thereof in accordance with the terms of the applicable Parity Obligations or Subordinated Obligations.

(vi) Occurrence of a Bankruptcy Related Event. (A) A Bankruptcy Related Event shall occur with respect to the Borrower; or (B) a Bankruptcy Related Event shall occur with respect to any Principal Project Party; provided that, with respect to clause (B), no System Event of Default shall be deemed to have occurred or be continuing if, within two hundred seventy (270) days after the Borrower becomes entitled to terminate the applicable Principal Project Contract due to such Bankruptcy Related Event, the Borrower replaces such Principal Project Contract with a replacement agreement (1) entered into with a replacement Principal Project Party that (I) is of similar or greater creditworthiness and experience as the Principal Project Party being replaced was at the time the applicable Principal Project Contract was originally executed (or

otherwise reasonably acceptable to the WIFIA Lender) and (II) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency, (2) on substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the WIFIA Lender) and (3) effective within two hundred seventy (270) days after the date of termination of the Principal Project Contract being replaced.

(vii) Invalidity of WIFIA Loan Documents. (A) Any WIFIA Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or the Borrower contests in any manner the validity or enforceability of any WIFIA Loan Document to which it is a party or denies it has any further liability under any WIFIA Loan Document to which it is a party, or purports to revoke, terminate or rescind any WIFIA Loan Document to which it is a party; (B) any MIPA Document ceases (other than as expressly permitted thereunder) to be effective or to grant a valid and binding security interest in any material portion of the Collateral other than as a result of actions or a failure to act by, and within the control of, the Trustee or any Secured Party, and with the priority purported to be created thereby; or (C) any event occurs that results in the material impairment in the perfection or priority of the WIFIA Lender's security interest in the Collateral or in the value of such Collateral.

(viii) Material Adverse Judgment. Any final, non-appealable judgment related to the System Revenues, the Water System or the Project shall be entered against the Borrower which has a Material Adverse Effect.

(b) Upon the occurrence of any Bankruptcy Related Event with respect to the Borrower, all obligations of the WIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the WIFIA Loan shall automatically be deemed terminated, and the Outstanding WIFIA Loan Balance, together with all interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, shall automatically become immediately due and payable, without presentment, demand, notice, declaration, protest or other requirements of any kind, all of which are hereby expressly waived. Following the occurrence of a Bankruptcy Related Event, the WIFIA Lender shall have the right to inspect any and all records related to transfers of funds to and from the Water Utility Fund, and the Borrower shall deliver to the WIFIA Lender (or give the WIFIA Lender access to) any such records as the WIFIA Lender may request so as to permit the WIFIA Lender to ensure that the Borrower has appropriately paid amounts payable in respect of the WIFIA Loan, including in respect of priority of payments.

(c) Upon the occurrence of any other System Event of Default, the WIFIA Lender, by written notice to the Borrower, may suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the WIFIA Loan. If the Parity Obligations or any Subordinated Obligations have been accelerated, the WIFIA Lender shall have the right to declare the unpaid principal amount of the WIFIA Loan to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable

under this Agreement, the WIFIA Note or the other WIFIA Loan Documents, all without presentment, demand, notice, protest or other requirements of any kind, all of which are hereby expressly waived. Following the delivery of any written notice to the Borrower by the WIFIA Lender of its exercise of such acceleration rights, the WIFIA Lender shall have the ongoing right to inspect any and all records related to transfers of funds to and from the Water Utility Fund, and the Borrower shall deliver to the WIFIA Lender (or give the WIFIA Lender access to) any such records as the WIFIA Lender may request so as to permit the WIFIA Lender to ensure that the Borrower has appropriately paid amounts payable in respect of the WIFIA Loan, including in respect of priority of payments.

(d) Whenever any System Event of Default shall have occurred and be continuing, the WIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under the WIFIA Note or the other WIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable, and the WIFIA Lender shall have all of the rights and remedies of a creditor and of a secured creditor under applicable law with respect thereto and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by Borrower under this Agreement, the WIFIA Note or the other WIFIA Loan Documents then due and thereafter to become due, or, subject, in the case of the MIPA Documents, to the provisions of Section 8.01 of the MIPA, to enforce performance and observance of any other obligation, agreement or covenant of the Borrower under this Agreement, the WIFIA Note or the other WIFIA Loan Documents.

(e) Whenever any System Event of Default shall have occurred and be continuing, the WIFIA Lender shall be entitled and empowered to bring a writ of mandamus action against the Borrower seeking to compel the Borrower to perform and carry out such Person's duties under the law and the agreements and covenants required to be performed by such Person contained herein.

(f) Whenever any System Event of Default shall have occurred and be continuing, the WIFIA Lender may suspend or debar the Borrower from further participation in any Government program administered by the WIFIA Lender and to notify other departments and agencies of such default.

(g) Whenever a Payment Default shall occur and be continuing, the Default Rate provisions of Section 6 (*Interest Rate*) shall apply.

(h) No action taken pursuant to this Section 18 shall relieve Borrower from its obligations pursuant to this Agreement, the WIFIA Note or the other WIFIA Loan Documents, all of which shall survive any such action.

Section 19. Project Events of Default and Remedies

(a) A "**Project Event of Default**" shall exist under this Agreement if any of the following occurs:

(i) Development Default. A Development Default shall occur.

(ii) Default Under Principal Project Contracts. The Borrower shall default in the timely performance of any covenant, agreement or obligation under any Principal Project Contract (unless in any case such default could not reasonably be expected to have a Material Adverse Effect), and the Borrower shall have failed to cure such default or to obtain an effective written waiver or revocation thereof prior to the expiration of the applicable grace period specified in any such Principal Project Contract.

(iii) Termination Under Principal Project Contracts. Any Principal Project Contract shall be terminated prior to its scheduled expiration, and the Borrower shall have failed to obtain an effective revocation of such termination; provided that no Project Event of Default shall be deemed to have occurred or be continuing under this clause (iii) if the Borrower replaces such Principal Project Contract with a replacement agreement (A) entered into with a replacement Principal Project Party that (1) is of similar or greater creditworthiness and experience as the Principal Project Party being replaced was at the time the applicable Principal Project Contract was originally executed (or otherwise reasonably acceptable to the WIFIA Lender) and (2) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency, (B) on substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the WIFIA Lender) and (C) effective within two hundred seventy (270) days after the date of termination of the Principal Project Contract being replaced.

(b) Upon the occurrence of any Project Event of Default, the WIFIA Lender may suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the WIFIA Loan and, if the Parity Obligations or any Subordinated Obligations have been accelerated, the WIFIA Lender shall have the right to declare the unpaid principal amount of the WIFIA Loan to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the WIFIA Note or the other WIFIA Loan Documents, all without presentment, demand, notice, protest or other requirements of any kind, all of which are hereby expressly waived. In addition, upon any Project Event of Default, (i) the WIFIA Lender may exercise any right or remedy set forth in Section 18(d), 18(e) or 18(f) (*System Events of Default and Remedies*) and (ii) the Default Rate provisions of Section 6 (*Interest Rate*) shall apply.

Section 20. Accounting and Audit Procedures; Inspections; Records.

(a) System-Related Accounting and Audit Procedures. The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all System Revenues, operating expenses, capital expenses, depreciation, reserves, debt issued and outstanding and debt payments. The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP.

(b) Project-Related Accounting and Audit Procedures; Inspections; Records.

(i) The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all Project-related costs, WIFIA Loan requisitions submitted, WIFIA Loan proceeds received, payments made by the Borrower with regard to the Project and other sources of funding for the Project (including amounts paid from such sources for Project costs so that audits may be performed to ensure compliance with and enforcement of this Agreement). The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP, including, with respect to the WIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts Outstanding.

(ii) So long as the WIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the WIFIA Loan shall have been paid in full, the WIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any portion of the Project, to examine books of account and records of the Borrower relating to the Project, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts relating to the Project with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the WIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 20(b) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the WIFIA Lender may request. The Borrower agrees to pay all out-of-pocket expenses incurred by the WIFIA Lender in connection with the WIFIA Lender's exercise of its rights under this Section 20(b) at any time when an Event of Default shall have occurred and be continuing.

(iii) The Borrower shall maintain and retain all files relating to the Project and the WIFIA Loan until five (5) years after the later of the date on which (A) all rights and duties under this Agreement and under the WIFIA Note (including payments) have been fulfilled and any required audits have been performed and (B) any litigation relating to the Project, the WIFIA Loan or this Agreement is finally resolved or, if the WIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the WIFIA Lender and the Borrower. The Borrower shall provide to the WIFIA Lender in a timely manner all records and documentation relating to the Project that the WIFIA Lender may reasonably request from time to time.

(iv) The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 in 2018 and annually thereafter, except to the extent biennial audits are permitted for the Borrower pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the WIFIA Lender, or designees thereof, pursuant to 31 U.S.C. § 7503(b) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or the WIFIA Loan, to the WIFIA Lender, or any designee thereof, for any such project or programmatic audit.

Section 21. System Financial Planning and Reporting.

(a) Updated Financial Model.

(i) The Borrower shall provide to the WIFIA Lender not later than two hundred seventy (270) days after the beginning of each Borrower Fiscal Year, an updated Base Case Financial Model reflecting the then-current and projected conditions. The Updated Financial Model shall demonstrate to the satisfaction of the WIFIA Lender that the Borrower has developed and identified adequate revenues to implement a plan for operating, maintaining and repairing the Project over its useful life, and shall set forth (A) the Borrower's capital improvement plan, major maintenance plan, projected rates and charges, projected debt outstanding and annual debt service, projected Maintenance and Operation Costs of the Water System and (B) evidence of compliance with the Rate Covenant for the most recent Borrower Fiscal Year and the projected Rate Covenants through the Final Maturity Date. The Borrower represents and warrants that the Updated Financial Model reflects the Borrower's reasonable expectations, using assumptions that the Borrower believes to be reasonable, of the Water System's expected operations, including capital costs, capital spending schedule, rates and charges (if applicable), System Revenues, Maintenance and Operation Costs of the Water System, major maintenance costs, financing structure and other scheduling, cost and financing elements required to be included in the Base Case Financial Model. The Updated Financial Model shall independently model the Project (as well as the Water System) addressing each of the foregoing as it may apply to the Project.

(ii) The Updated Financial Model shall include: (A) a certificate signed by the Borrower's Authorized Representative to the effect that the Updated Financial Model, including the assumptions and supporting documentation, as of its date, is accurate and reasonable to the best of the Borrower's knowledge and belief; (B) a written narrative identifying any material changes to the underlying assumptions from the previous Updated Financial Model; (C) a certificate signed by the Borrower's Authorized Representative demonstrating that annual projected Net System Revenues will be sufficient to meet the Loan Amortization Schedule and to satisfy the Rate Covenant through the Final Maturity Date; and (D) a certificate signed by the Borrower's Authorized Representative that the Borrower is in compliance with its obligations in respect of the Rate Covenant pursuant to Section 14(k) (*Affirmative Covenants – Rate Covenant*).

(b) Financial Statements.

(i) The Borrower shall furnish to the WIFIA Lender as soon as available, but no later than one hundred eighty (180) days after the end of each Borrower Fiscal Year, a copy of the audited Statement of Net Position, Statement of Revenues, Expenses & Changes in Net Position and Statement of Cash Flows of the Borrower with respect to the Water System as of the end of such Borrower Fiscal Year, certified without qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower; provided that the failure of the Borrower to deliver to the WIFIA Lender the financial statements required by this

Section 21(b)(i) within such 180-day period shall not constitute a Default or an Event of Default so long as the Borrower delivers such financial statements within ninety (90) days after the end of such period.

(ii) All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(c) Officer's Certificate. The Borrower shall furnish to the WIFIA Lender, together with each delivery of annual audited financial statements of the Borrower pursuant to Section 21(b) (*System Financial Planning and Reporting – Financial Statements*), a certificate signed by the Borrower's Authorized Representative, stating whether or not, to the Borrower's knowledge, during the annual period covered by such financial statements, there occurred any Default or Event of Default and, if any Default or Event of Default shall have occurred during such period, the nature of such Default or Event of Default and the actions that the Borrower has taken or intends to take in respect thereof.

Section 22. Project Oversight and Monitoring.

(a) Project Development, Design and Construction. The WIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development, including environmental compliance, design, and construction, of the Project. The Borrower shall be responsible for administering construction oversight of the Project in accordance with applicable federal, state and local governmental requirements. The Borrower agrees to cooperate in good faith with the WIFIA Lender in the conduct of such monitoring by promptly providing the WIFIA Lender with such reports, documentation or other information as shall be requested by the WIFIA Lender or its agents, including any independent engineer reports, documentation or information.

(b) Reporting. The Borrower shall deliver to the WIFIA Lender, no later than thirty (30) days prior to any notice to proceed, the final designs, plans and specifications relating to the development and construction of the Project. During the period through the Substantial Completion Date, the Borrower shall furnish to the WIFIA Lender, on a quarterly basis, a report on the status of the Project, in substantially the form of **Exhibit J** (*Form of Quarterly Report*) (each, a "**Quarterly Report**"). The report shall be executed by the Borrower's Authorized Representative and, for any quarter, shall be delivered to the WIFIA Lender not later than the sixtieth (60th) day of the following quarter (or if such day is not a Business Day, on the next following Business Day). Each report shall include the following information:

(i) the amount of Total Project Costs expended on each Principal Project Contract as well as the amount expended during the preceding calendar quarter and the amount of Total Project Costs estimated to be required to complete each of the Principal Project Contracts;

(ii) an assessment of the overall construction progress of the Project, including notice of the receipt of relevant Governmental Approvals, since the Effective Date and since the date of the last report, together with an assessment of how such progress compares to the Construction Schedule set forth as **Schedule II** (*Construction Schedule*), as updated pursuant to previous reports delivered under this Section 22(b);

(iii) the then-current projection for the Substantial Completion Date as compared to the Projected Substantial Completion Date (as updated pursuant to previous reports delivered under this Section 22(b)) and, if the then-current projection is a date later than the Projected Substantial Completion Date, a description in reasonable detail to the reasonable satisfaction of the WIFIA Lender of the reasons for such projected delay;

(iv) a detailed description of all material problems, if any (including actual and anticipated cost and/or schedule overruns, if any), encountered or anticipated in connection with the construction of the Project during the preceding quarter, together with an assessment of how such problems may impact the Construction Schedule and the meeting of critical dates thereunder and a detailed description of the proposed solutions to any such problems;

(v) any proposed or pending change orders of a material nature; and

(vi) a discussion or analysis of such other matters related to the Project as the WIFIA Lender may reasonably request.

The Borrower shall respond, and use commercially reasonable efforts to cause the Principal Project Parties to respond, to the WIFIA Lender's inquiries regarding such report, the construction of the Project and any Principal Project Party's performance of its obligations under the Principal Project Contract to which such Principal Project Party is a party.

(c) Additional Reporting. On or before the Effective Date, within ninety (90) days following the Substantial Completion Date and within ninety (90) days following the fifth (5th) anniversary of the Substantial Completion Date, the Borrower shall deliver to the WIFIA Lender a report including the following information:

(i) the estimated interest savings the Borrower is realizing through the use of the WIFIA Loan compared to comparable market rate financing;

(ii) the following jobs information:

(A) with respect to the report delivered on or before the Effective Date, the number of jobs projected to be created by the Project during the period between the Effective Date and the Substantial Completion Date;

(B) with respect to the report delivered within ninety (90) days following the Substantial Completion Date, the number of jobs created by the Project on an annual basis during the period between the Effective Date and the Substantial Completion Date; and

(C) with respect to the report delivered within ninety (90) days following the fifth (5th) anniversary of the Substantial Completion Date, the number of jobs created by the Project on an annual basis during the period between the Substantial Completion Date and the fifth (5th) anniversary of the Substantial Completion Date;

(iii) whether the Project will assist the Borrower in complying with applicable regulatory requirements, and if so, a narrative description describing such enhancements; and

(iv) the amount by which the Project will increase the volume of water recycled, recharged or redirected (measured in MGD as of Substantial Completion).

(d) Requested Information. The Borrower shall, at any time while the WIFIA Loan remains Outstanding, promptly deliver to the WIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower with respect to the Water System or regarding the Project (including construction progress reports delivered by the applicable Principal Project Parties to the Borrower and any Project risk register) or the System Revenues (including any rate studies prepared by or for the Borrower) as the WIFIA Lender may from time to time reasonably request. The Borrower agrees that information described under Section 22(c) (*Project Oversight and Monitoring – Additional Reporting*) may be made publicly available by the WIFIA Lender at its discretion.

(e) Modifications to Total Project Costs. For the period through the Substantial Completion Date, the Borrower shall provide the WIFIA Lender with written notification at least thirty (30) days prior to instituting any increase or decrease to the Total Project Costs for the Project in an amount equal to or greater than five percent (5%), which notification shall set forth the nature of the proposed increase or decrease and an estimate of the impact of such increase or decrease on the capital costs and operating costs of the Water System. The Borrower's notice shall demonstrate that the proposed increase or decrease is consistent with the provisions of this Agreement, is necessary or beneficial to the Project, does not materially impair the WIFIA Lender's security or the Borrower's ability to comply with its obligations under the Related Documents (including any financial ratios or covenants included therein), and could not reasonably be expected to result in a Material Adverse Effect.

(f) Project Operations.

(i) On or before August 1 of each Borrower Fiscal Year, the Borrower shall adopt, and on or before the day that is one hundred twenty (120) days after the beginning of the Borrower Fiscal Year, make available to the WIFIA Lender, a budget approved by the City Council setting forth the estimated Maintenance and Operation Costs of the Water System for such Borrower Fiscal Year. Any budget may be amended at any time during any Borrower Fiscal Year and such amended budget shall be delivered promptly to the WIFIA Lender.

(ii) The WIFIA Lender shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) the Project's operations and, as the WIFIA Lender may request from time to time, to receive reporting on the operation and

management of the Project, and copies of any contracts relating to the operation and maintenance of the Project. The Borrower agrees to cooperate in good faith with the WIFIA Lender in the conduct of such monitoring by promptly providing the WIFIA Lender with such reports, documentation, or other information requested by the WIFIA Lender. The WIFIA Lender has the right, in its sole discretion, to retain such consultants or advisors to carry out the provisions of this Section 22.

Section 23. Disclaimer of Warranty. The WIFIA Lender makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for a particular purpose or fitness for use of the Project or any portion thereof or any other warranty with respect thereto. In no event shall the WIFIA Lender be liable for any incidental, indirect, special or consequential damages incidental to or arising out of this Agreement or the Project or the existence, furnishing, functioning or use of the Project or any item or products or services provided for in this Agreement.

Section 24. No Personal Recourse. No official, employee or agent of the WIFIA Lender or the Borrower or any Person executing this Agreement or any of the other WIFIA Loan Documents shall be personally liable on this Agreement or such other WIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 25. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, the Government, or the WIFIA Lender, solely by virtue of the WIFIA Loan, and the Borrower agrees to indemnify and hold the WIFIA Lender, the Servicer (if any), the Administrator, and the Government harmless, to the extent permitted by law and in accordance with Section 16 (*Indemnification*), from any lawsuit or claim arising in law or equity solely by reason of the WIFIA Loan, and that no third party creditor of the Borrower shall have any right against the WIFIA Lender with respect to the WIFIA Loan made pursuant to this Agreement.

Section 26. Borrower's Authorized Representative. The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the WIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower. The initial Borrower's Authorized Representative shall be designated pursuant to the incumbency certificate appended to the certificate provided by the Borrower's Authorized Representative pursuant to Section 11(a)(vi) (*Conditions Precedent – Conditions Precedent to Effectiveness*), and shall serve as Borrower's Authorized Representative hereunder until such time as a successor shall have been appointed. Upon such appointment, the successor in office shall serve as the Borrower's Authorized Representative and the Borrower shall promptly provide notice of such appointment to the WIFIA Lender.

Section 27. WIFIA Lender's Authorized Representative. The WIFIA Lender hereby appoints the Director of the WIFIA Program, whose notice details are set forth below in Section 37 (*Notices; Payment Instructions*), to serve as the WIFIA Lender's Authorized Representative under this Agreement until such time as a successor or successors shall have been appointed. Thereafter, the successor in office shall serve as the WIFIA Lender's Authorized Representative.

The WIFIA Lender shall provide notice to the Borrower within a reasonable time period following the succession.

Section 28. Servicer. The WIFIA Lender may from time to time designate another entity or entities to perform, or assist the WIFIA Lender in performing, the duties of the Servicer or specified duties of the WIFIA Lender under this Agreement and the WIFIA Note. The WIFIA Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the WIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the WIFIA Lender shall have delegated to such Servicer. The WIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the WIFIA Note. The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

Section 29. Fees and Expenses.

(a) Servicing Set-Up Fee. Within thirty (30) days after receipt of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the date of the initial disbursement of the WIFIA Loan), the Borrower shall pay to the WIFIA Lender a servicing set-up fee equal to \$25,000 (the “**Servicing Set-Up Fee**”).

(b) Construction Period Servicing Fee.

(i) For the period from the Effective Date until the Substantial Completion Date, the Borrower shall pay to the WIFIA Lender an annual servicing fee equal to \$25,000 (the “**Construction Period Servicing Fee**”).

(ii) The initial Construction Period Servicing Fee shall be due and payable within thirty (30) days after receipt of an invoice with respect thereto from the WIFIA Lender (or, if earlier, the date of the initial disbursement of the WIFIA Loan) in an amount equal to \$20,800.

(iii) Each Construction Period Servicing Fee following the initial Construction Period Servicing Fee shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to November 15 of each calendar year during the Construction Period; provided that the Construction Period Servicing Fee shall be payable for the Federal Fiscal Year during which (and regardless of the date on which) the Substantial Completion Date occurs.

(iv) The amount of each Construction Period Servicing Fee (other than the initial Construction Period Servicing Fee) shall be adjusted in proportion to the percentage change in CPI for the calendar year immediately preceding the calendar year during which such fee is due. The WIFIA Lender shall notify the Borrower of the amount of each such Construction Period Servicing Fee at least thirty (30) days before payment is due, which determination shall be conclusive absent manifest error.

(c) Operating Period Servicing Fee.

(i) Following the Substantial Completion Date, the Borrower shall pay to the WIFIA Lender an annual servicing fee equal to \$7,500 (the “**Operating Period Servicing Fee**”).

(ii) Each Operating Period Servicing Fee shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to November 15 of each calendar year, beginning with the first November 15 that occurs after the end of the Federal Fiscal Year during which the Substantial Completion Date occurs.

(iii) The amount of the initial Operating Period Servicing Fee shall be adjusted in proportion to the aggregate percentage change in CPI from the calendar year during which the Effective Date occurs through the calendar year immediately preceding the calendar year during which such initial Operating Period Servicing Fee is due. The amount of each Operating Period Servicing Fee (other than the initial Operating Period Servicing Fee) shall be adjusted in proportion to the percentage change in CPI for the calendar year immediately preceding the calendar year for which such fee is due.

(iv) The Operating Period Servicing Fee due and payable with respect to the Federal Fiscal Year during which the Final Maturity Date occurs shall be equal to the pro-rated monthly portion of the then applicable Operating Period Servicing Fee multiplied by the number of partial or whole months remaining between October 1 and the Final Maturity Date.

(v) The WIFIA Lender shall notify the Borrower of the amount of each Operating Period Servicing Fee at least thirty (30) days before payment is due, which determination shall be conclusive absent manifest error.

(d) The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the WIFIA Lender on demand from time to time, within thirty (30) days after receipt of any invoice from the WIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors) in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other WIFIA Loan Documents and the transactions hereby and thereby contemplated, including attorneys’, and engineers’ fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with:

(i) the enforcement of or attempt to enforce any provision of this Agreement or any of the other WIFIA Loan Documents;

(ii) any amendment, modification, or requested amendment or modification of, waiver, consent, or requested waiver or consent under or with respect to, or the protection or preservation of any right or claim under, this Agreement, any other Related Document, or the Collateral, or advice in connection with the administration, preservation in full force and effect, and enforcement of this Agreement or any other Related Document or the rights of the WIFIA Lender thereunder; and

(iii) any work-out, restructuring, or similar arrangement of the obligations of the Borrower under this Agreement or the other WIFIA Loan Documents, including during the pendency of one or more Events of Default.

The obligations of the Borrower under this Section 29 shall survive the payment or prepayment in full or transfer of the WIFIA Note (provided that the Construction Period Servicing Fee and the Operating Period Servicing Fee shall cease to accrue following any such payment or prepayment in full in cash of the WIFIA Note), the enforcement of any provision of this Agreement or the other WIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement.

Section 30. Amendments and Waivers. No amendment, modification, termination, or waiver of any provision of this Agreement shall in any event be effective without the written consent of each of the parties hereto.

Section 31. Governing Law. This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 32. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 33. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Borrower without the prior written consent of the WIFIA Lender.

Section 34. Remedies Not Exclusive. No remedy conferred herein or reserved to the WIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 35. Delay or Omission Not Waiver. No delay or omission of the WIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the WIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the WIFIA Lender.

Section 36. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same

document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 37 (*Notices; Payment Instructions*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable.

Section 37. Notices; Payment Instructions. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to WIFIA Lender:

Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460
Attention: Jorianne Jernberg
Email: WIFIA@epa.gov

If to Borrower:

City of San Diego
City Administration Bldg.
202 C Street, Mail Station 7B
San Diego, California 92101
Attention: Brian Mandell, Debt Management
Email: bmandell@sandiego.gov

Unless otherwise specified herein or instructed by the WIFIA Lender's Authorized Representative, all notices to the WIFIA Lender should be made by email to the email address noted above for the WIFIA Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by the Borrower's Authorized Representative, with respect to notices to the Borrower, or by the WIFIA Lender's Authorized Representative, with respect to notices to the WIFIA Lender or the Servicer. The Borrower shall make any payments hereunder or under the WIFIA Note in accordance with Section 9(f) (*Payment of Principal and Interest – Manner of Payment*) and the payment instructions hereafter provided by the WIFIA Lender's Authorized Representative, as modified from time to time by the WIFIA Lender. Each such notice, request or communication shall be effective (a) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party) and (b) if given by email, when such email is delivered to the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party); provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 38. Effectiveness. This Agreement shall be effective on the Effective Date.

Section 39. Termination. This Agreement shall terminate upon the irrevocable payment in full in cash by the Borrower of the Outstanding WIFIA Loan Balance, together with all accrued interest, fees and expenses with respect thereto; provided that the indemnification

requirements of Section 16 (*Indemnification*), the reporting and record keeping requirements of Section 20(b)(ii) and (iii) (*Accounting and Audit Procedures; Inspections; Records*) and the payment requirements of Section 29 (*Fees and Expenses*) (subject to the terms of such Section) shall survive the termination of this Agreement as provided in such sections.

Section 40. Integration. This Agreement, together with the other WIFIA Loan Documents, constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

CITY OF SAN DIEGO

By: 
Name: Rolando Charvel
Title: Chief Financial Officer

APPROVED AS TO FORM:

MARA W. ELLIOTT, City Attorney

By: 
Name: Bret A. Bartolotta
Title: Deputy City Attorney

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY**, acting by and through
the Administrator of the Environmental Protection
Agency

By: 

Name: Andrew R. Wheeler

Title: Acting Administrator

SCHEDULE I
PROJECT BUDGET

[Attached.]

Water System Portion of the Pure Water San Diego Program Phase 1 - North City	Total									
	FYE	FYE	FYE	FYE	FYE	FYE	FYE	FYE	FYE	FYE
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024

Uses of Funds for Water System - Pure Water San Diego Program Phase 1- North City											
Projects*											
North City Morena Blvd Pump Station and Pipeline	\$54,461,229	\$43,689	\$463,495	\$1,018,609	\$1,591,015	\$1,096,801	\$17,710,420	\$19,969,888	\$11,211,029	\$1,356,332	\$0
North City Water Reclamation Plant Expansion and Influent Co	\$38,418,311	\$0	\$10,994	\$412,267	\$1,558,248	\$1,295,483	\$18,575,591	\$14,798,184	\$2,667,372	\$100,171	\$0
North City Pure Water Facility	\$526,322,041	\$356,066	\$3,499,605	\$5,366,161	\$18,819,781	\$19,040,389	\$117,948,426	\$159,328,136	\$119,406,908	\$71,413,777	\$11,142,792
North City Pure Water Pipeline	\$113,493,318	\$0	\$701,334	\$4,962,149	\$1,938,561	\$5,588,872	\$11,984,192	\$39,346,981	\$29,485,339	\$18,083,662	\$1,400,728
North City Pure Water Pump Station	\$19,385,995	\$11,984	\$371,482	\$2,290,465	\$522,093	\$171,999	\$3,048,610	\$5,614,260	\$4,308,354	\$2,611,090	\$436,118
Marina Reservoir Pump Station Improvements Project	\$18,638,057	\$0	\$0	\$0	\$472,196	\$1,038,575	\$250,125	\$8,668,469	\$6,735,207	\$1,473,515	\$0
WFLA CDI	\$750,000	\$0	\$0	\$0	\$0	\$750,000	\$0	\$0	\$0	\$0	\$0
PW OCP Insurance Carrier Costs¹	\$10,227,331	\$0	\$0	\$0	\$0	\$0	\$5,391,818	\$2,420,991	\$2,414,522	\$0	\$0
PW OCP Loss Reserve¹	\$4,645,319	\$0	\$0	\$0	\$0	\$0	\$1,108,672	\$1,143,061	\$1,178,516	\$1,215,071	\$0
PW 10% Pooled Contingency¹	\$57,158,058	\$0	\$0	\$0	\$0	\$0	\$16,160,784	\$22,184,673	\$13,055,216	\$5,194,690	\$562,696
Subtotal Water System Cost	\$844,499,659	\$411,739	\$5,046,910	\$14,049,660	\$24,501,834	\$28,981,719	\$192,178,639	\$273,476,163	\$190,462,463	\$101,448,208	\$13,542,334

Sources of Funds for Water System - Pure Water San Diego Program Phase 1 - North City											
Grants	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Existing Debt Proceeds	\$10,856,696	\$0	\$4,874,447	\$5,982,249	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cash	\$90,010,480	\$411,739	\$172,463	\$1,349,883	\$0	\$0	\$21,456,221	\$37,077,270	\$28,590,050	\$390,159	\$562,866
SF Loans	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
WFLA	\$614,000,000	\$0	\$0	\$0	\$0	\$28,981,719	\$170,722,418	\$236,398,893	\$161,872,413	\$16,024,557	\$0
PW/Rev Bond 1	\$98,013,131	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$85,033,492	\$0
CP/Rev Bond	\$31,619,352	\$0	\$0	\$6,717,518	\$24,501,834	\$0	\$0	\$0	\$0	\$0	\$12,979,638
Capacity Fees	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Water System Sources of Funds	\$844,499,659	\$411,739	\$5,046,910	\$14,049,650	\$24,501,834	\$28,981,719	\$192,178,639	\$273,476,163	\$190,462,463	\$101,448,208	\$13,542,334

Wastewater System Portion of the Pure Water San Diego Program Phase 1 - North City

Uses of Funds for Wastewater System - Pure Water San Diego Program Phase 1- North City											
Projects											
North City Morena Blvd Pump Station and Pipeline	\$318,690,656	\$154,897.39	\$1,647,288	\$3,280,849	\$13,022,738	\$9,160,001	\$106,518,715	\$115,234,240	\$53,446,638	\$14,659,369	\$1,566,921
North City Water Reclamation Plant Expansion and Influent Co	\$217,894,530	\$268,778.29	\$2,349,630	\$3,482,119	\$9,302,855	\$5,381,244	\$61,198,601	\$77,180,926	\$44,533,751	\$14,195,625	\$0
North City Metro Biosolids Center Improvements Project PW	\$3,910,743	\$0.00	\$0	\$136,068	\$152,203	\$216,793	\$1,011,683	\$1,240,247	\$797,635	\$356,114	\$0
OCP Insurance Carrier Costs¹	\$7,406,009	\$0.00	\$0	\$0	\$0	\$0	\$3,904,419	\$1,733,144	\$1,748,446	\$0	\$0
PW OCP Loss Reserve¹	\$3,363,854	\$0.00	\$0	\$0	\$0	\$0	\$802,832	\$827,734	\$683,409	\$879,879	\$0
PW 10% Pooled Contingency¹	\$41,390,317	\$0.00	\$0	\$0	\$0	\$0	\$11,702,637	\$16,064,763	\$9,453,777	\$3,761,671	\$407,469
Subtotal Wastewater System Cost	\$592,656,110	\$423,675.68	\$3,996,917	\$6,899,037	\$22,477,796	\$14,758,038	\$185,139,887	\$212,301,054	\$110,882,655	\$33,852,659	\$1,974,390
Sources of Funds for Wastewater System - Pure Water San Diego Program Phase 1- North City											
Grants	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Existing Debt Proceeds	\$14,758,038	\$0	\$0	\$0	\$0	\$14,758,038	\$29,009,889	\$18,645,641	\$2,289,825	\$3,108,142	\$1,974,390
Cash	\$88,825,313	\$423,676	\$3,996,917	\$6,899,037	\$22,477,796	\$0	\$156,129,999	\$193,655,413	\$53,213,725	\$0	\$0
SFR Loans	\$402,999,137	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
WFLA	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PW/Rev Bond 1	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
CP/Rev Bond	\$86,073,622	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$55,329,105	\$30,744,517	\$0
Capacity Fees	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Wastewater System Sources of Funds	\$592,656,110	\$423,676	\$3,996,917	\$6,899,037	\$22,477,796	\$14,758,038	\$185,139,887	\$212,301,054	\$110,882,655	\$33,852,659	\$1,974,390
Total Pure Water Phase 1 Uses of Funds	\$1,437,155,769	\$835,415	\$9,043,828	\$20,948,687	\$47,379,630	\$48,739,757	\$377,318,526	\$485,777,217	\$301,295,118	\$135,300,866	\$15,516,724

* WFLA Eligible Project Costs exclude the North City Renewable Energy Project.
 1 OCP Insurance Costs and Pooled Contingency may be allocated to each project.
 Estimated Costs are subject to change; Cost data includes inflation factor beginning in 2020.

SCHEDULE II
CONSTRUCTION SCHEDULE

Project	Project Component	Bid/ Advertisement Date	Construction Contractor NTP	Functional Testing Finish (Intermediate Substantial Completion)	Construction Finish (Substantial Completion)
North City Pure Water Facility	Clearing & Grubbing	Oct-18	Apr-19	Sep-19	Sep-19
	Construction	Feb-19	Aug-19	Dec-22	May-23
North City Water Reclamation Plant Expansion and Influent Conveyance	Expansion Site/Mass Grading	Oct-18	Apr-19	Aug-20	Aug-20
	Construction - EQ Basins	Mar-19	Aug-19	Apr-21	Jul-21
	Construction - Influent Conveyance	Mar-19	Oct-19	Feb-22	Apr-23
	Construction - NCWRP Expansion	Mar-19	Oct-19	Nov-22	Apr-23
North City Pure Water Pump Station	Construction	Feb-19	Aug-19	Feb-22	Jul-23
North City Morena Blvd Pump Station and Pipeline	Construction – Morena Pump Station	Feb-19	Aug-19	Aug-22	Jul-23
	Construction – Morena Southern Segment	Jan-19	Jul-19	May-22	May-22
	Construction – Morena Northern Alignment & Tunnels	Feb-19	Aug-19	Aug-22	Aug-22
	Construction – Morena Middle Alignment	Mar-19	Sep-19	Jul-22	Jul-22
North City Pure Water Pipeline	Construction – Pipeline &	Jan-19	Oct-19	Mar-23	Jul-23

	Dechlorination Facility				
	Construction – Subaqueous Pipeline	Jan-20	Aug-20	Oct-21	Jul-23
North City Metro Biosolids Improvements Project	Construction	Mar-19	Sep-19	Apr-22	Apr-23
Miramar Water Treatment Plant and Miramar Reservoir Pump Station Improvements	Construction - Miramar Reservoir Pump Station Improvements	Jan-20	Aug-20	Oct-22	Nov-22

SCHEDULE III
EXISTING INDEBTEDNESS

I. BONDS¹

Subordinated Obligations		
<i>Series/Description</i>	<i>Outstanding Principal Amount</i>	<i>Final Maturity Date</i>
Subordinated Water Revenue Bonds, Series 2016A	\$39,115,000	August 1, 2045
Subordinated Water Revenue Bonds, Refunding Series 2016B	\$448,290,000	August 1, 2039
Subordinated Water Revenue Bonds, Refunding Series 2012A	\$119,360,000	August 1, 2032

II. LOANS

Senior SRF Loans			
<i>Project/Loan</i>	<i>Lender</i>	<i>Outstanding Principal Amount</i>	<i>Final Maturity Date</i>
69 th Street & Mohawk Pump Station ²	SWRCB	\$7,319,886	January 1, 2050
University Avenue Pipeline Replacement ²	SWRCB	\$23,047,417	July 1, 2038
Lindbergh Field Pipeline Replacement	SWRCB	\$2,932,504	January 1, 2036
Harbor Drive Project	SWRCB	\$9,509,547	January 1, 2036
Otay Water Treatment Plant	SWRCB	\$13,099,038	January 1, 2032
Miramar Water Treatment Plant	SWRCB	\$14,014,250	July 1, 2031
Alvarado Water Treatment Plant	SWRCB	\$8,409,848	July 1, 2031

1. Outstanding commercial paper notes will be refunded with Senior or Subordinated Water Revenue Bonds, timing to be determined. As of November 14, 2018, there is \$205.9 million outstanding in commercial paper notes; this amount will be refunded with the Subordinated Water Revenue Bonds, Series 2018A.
2. Project remains under construction. The indicated maturity date and principal amount are based on loan disbursements to date. The maturity date and principal amount will be finalized upon completion of the project.

SCHEDULE IV

PROJECT

1. North City Morena Blvd Pump Station and Pipeline. This component will deliver additional wastewater flows to the North City Water Reclamation Plant (NCWRP). The wastewater portion of this component includes a 37.7 mgd pump station and 10.7 mile, 48-inch forcemain. The forcemain will convey wastewater from the pump station to the NCWRP for treatment. The water-related infrastructure comprises a 10.7-mile, 30-inch gravity pipeline to dispose of the brine generated at the North City Pure Water Facility (NCPWF).
2. North City Water Reclamation Plant Expansion and Influent Conveyance. This component includes the expansion of the NCWRP from 30 mgd to 52 mgd so the facility can continue to serve recycled water customers and provide tertiary-treated water to the future NCPWF. The water scope of this component includes a new tertiary filter and a 42.5-mgd pump station and 1,400 linear foot, 42-inch pipeline (Influent Conveyance).
3. North City Pure Water Facility. The NCPWF will treat the tertiary-treated water to purified water standards and be constructed north of Eastgate Mall across from the existing NCWRP. Once operational, the new plant will have a production capacity of up to 34 mgd. The purified water from the NCPWF will be conveyed to Miramar Reservoir.
4. North City Pure Water Pump Station and North City Pure Water Pipeline. This component includes a new 30-mgd pump station and 8-mile, 48-inch force main, 0.9-mile subaqueous dispersion pipeline and dechlorination facility that will convey the purified water produced at the NCPWF to the existing Miramar Reservoir.
5. Miramar Water Treatment Plant and Miramar Reservoir Pump Station Improvements. This component involves improvements to the Miramar Reservoir Pump Station that will be required because of the increase in the amount of water received by the Miramar Reservoir and the change in pump station operation from intermittent daily pump operation to continuous pump operation. Potential related improvements may also be made if necessary to the Miramar Water Treatment Plant, to which the Miramar Reservoir Pump Station pumps water from the Miramar Reservoir.
6. North City Metro Biosolids Center Improvements Project. The Metro Biosolids Center (MBC) is the Borrower's regional biosolids facility which receives and processes solids from both the NCWRP and the Point Loma Wastewater Treatment Plant. Because the NCWRP will be expanded to 52 mgd as part of the Pure Water Program, the MBC will experience higher flows than it is currently receiving. To accommodate the additional flows, upgrades and improvements to the existing process systems are necessary. The major project scope elements at MBC entail improvements to the following process areas: grit removal, biosolids thickening, anaerobic digestion and centrate pump station.

SCHEDULE V

SECTION 5.02 OF MIPA AND SECTION 7 OF COLLATERAL AGENCY AGREEMENT

I. MIPA

SECTION 5.02. Allocation of System Revenues. (a) In order to carry out and effectuate the commitment and pledge contained in Section 5.01, the City agrees and covenants that all System Revenues shall be received by the City in trust and shall be deposited when and as received in the Water Utility Fund, which fund the City agrees and covenants to maintain so long as any Obligations remain unpaid, and all moneys in the Water Utility Fund shall be so held in trust and applied and used solely as provided herein in the amounts, at the times and only for the purposes specified below and in the following order of priority; provided that no amount shall be transferred on any date pursuant to any clause below until amounts sufficient for all the purposes specified under the prior clauses shall have been transferred or set aside; and provided further that in the event there are insufficient Net System Revenues to make all of the payments contemplated in any one clause below, then said transfers, deposits and payments directed by such clause shall be made as nearly as practicable pro rata, based upon the respective unpaid amounts of the Obligations addressed by such clause:

First, the City shall pay from the Water Utility Fund directly or as otherwise required all Maintenance and Operation Costs of the Water System;

Second, on each Parity Obligation Interest Funding Date and on each other date on which the following amounts shall be due and payable, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in the Parity Obligations Interest Account of the Parity Obligations Payment Fund, the sum of (A) an amount equal to the interest due and payable on all Parity Obligations; plus (B) an amount equal to any continuing shortfall in transfers required to have been made to the Parity Obligations Interest Account on any preceding Parity Obligation Interest Funding Date;

Third, on each Parity Obligation Principal Funding Date and on each other date on which the following amounts shall be due and payable, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in the Parity Obligations Principal Account of the Parity Obligations Payment Fund, the sum of (A) an amount equal to the principal and mandatory sinking fund redemptions due and payable on all Parity Obligations; plus (B) an amount equal to any continuing shortfall in transfers required to have been made to the Parity Obligations Principal Account on any preceding Parity Obligation Principal Funding Date;

Fourth, on each Parity Obligation Interest Funding Date, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in any Parity Obligations Reserve Account (if any) the amount necessary so that the balance therein equals the applicable Parity Obligations Reserve Requirement; provided that in the event of any draw on a Reserve Fund Credit Facility held in any Parity Obligations Reserve Account, there shall be

deemed a deficiency in such Parity Obligations Reserve Account until the amount of the Reserve Fund Credit Facility is restored to its pre-draw amount;

Fifth, on each Subordinated Obligation Interest Funding Date and on each other date on which the following amounts shall be due and payable, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in the Subordinated Obligations Interest Account of the Subordinated Obligations Payment Fund, the sum of (A) an amount equal to the interest due and payable on all Subordinated Obligations; plus (B) an amount equal to any continuing shortfall in transfers required to have been made to the Subordinated Obligations Interest Account on any preceding Subordinated Obligation Interest Funding Date;

Sixth, on each Subordinated Obligation Principal Funding Date and on each other date on which the following amounts shall be due and payable, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in the Subordinated Obligations Principal Account of the Subordinated Obligations Payment Fund, the sum of (A) an amount equal to the principal and mandatory sinking fund redemptions due and payable on all Subordinated Obligations; plus (B) an amount equal to any continuing shortfall in transfers required to have been made to the Subordinated Obligations Principal Account on any preceding Funding Date; and

Seventh, on each Subordinated Obligation Interest Funding Date, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in any Subordinated Obligations Reserve Account (if any) the amount necessary so that the balance therein equals the applicable Subordinated Obligations Reserve Requirement; provided that in the event of any draw on a Reserve Fund Credit Facility held in any Subordinated Obligations Reserve Account, there shall be deemed a deficiency in such Subordinated Obligations Reserve Account until the amount of the Reserve Fund Credit Facility is restored to its pre-draw amount.

(b) After the transfers, deposits and payments contemplated by subsection (a) above have been made, any amounts thereafter remaining in the Water Utility Fund may be used for any lawful purpose of the Water System.

II. COLLATERAL AGENCY AGREEMENT

7. Application of Net System Revenues and Other Amounts.

(a) The Borrower shall collect and deposit all System Revenues when and as received in the Water Utility Fund and shall make each of the transfers of Net System Revenues from the Water Utility Fund to the Collateral Agent for deposit in the Accounts set forth in Section 6 above pursuant to Section 5.02 of the MIPA.

(b) The Collateral Agent shall make the following withdrawals, transfers and payments from the Accounts in the amounts, at the times and for the purposes specified in this Section 7(b).

(i) Parity Obligations Interest Account. On each Parity Obligation Interest Payment Date and on each other date on which the following amounts shall be due and payable, the Collateral Agent shall pay to the Holders of Parity Obligations, from the Parity Obligations Interest Account, the interest due and payable, including any amounts overdue and payable, on such date to Holders of Parity Obligations; provided that if the amount on deposit in the Parity Obligations Interest Account is insufficient therefor, the Collateral Agent shall pay each Parity Obligation Holder a Pro Rata Amount.

(ii) Parity Obligations Principal Account. On each Parity Obligation Principal Payment Date and on each other date on which the following amounts shall be due and payable, the Collateral Agent shall pay to the Holders of Parity Obligations, from the Parity Obligations Principal Account, the principal and mandatory sinking fund redemptions due and payable, including any amounts overdue and payable, on such date to Holders of Parity Obligations; provided that if the amount on deposit in the Parity Obligations Principal Account is insufficient therefor, the Collateral Agent shall pay each Parity Obligation Holder a Pro Rata Amount.

(iii) Parity Obligations Reserve Account. On each Parity Obligation Interest Payment Date, the Collateral Agent shall transfer to the holder of each Parity Obligations Reserve Fund (if any) the amount set forth in a written direction of the Borrower, which shall be no more than the amount necessary so that the balance therein equals the applicable Reserve Requirement; provided that if the amount on deposit in the Parity Obligations Reserve Account is insufficient therefor, the Collateral Agent shall transfer to each holder of a Parity Obligations Reserve Fund a Pro Rata Amount; and provided further that in the event of any draw on a Reserve Fund Credit Facility held in any Parity Obligations Reserve Fund, there shall be deemed a deficiency in such Parity Obligations Reserve Fund until the amount of the Reserve Fund Credit Facility is restored to its pre-draw amount.

(iv) Subordinated Obligations Interest Account. On each Subordinated Obligation Interest Payment Date and on each other date on which the following amounts shall be due and payable, the Collateral Agent shall pay to the Holders of Subordinated Obligations, from the Subordinated Obligations Interest Account, the interest due and payable, including any amounts overdue and payable, on such date to Holders of Subordinated Obligations; provided that if the amount on deposit in the Subordinated Obligations Interest Account is insufficient therefor, the Collateral Agent shall pay each Subordinated Obligation Holder a Pro Rata Amount.

(v) Subordinated Obligations Principal Account. On each Subordinated Obligation Principal Payment Date and on each other date on which the following amounts shall be due and payable, the Collateral Agent shall pay to the Holders of Subordinated Obligations, from the Subordinated Obligations Principal Account, the principal and mandatory sinking fund redemptions due and payable, including any amounts overdue and payable, on such date to Holders of Subordinated Obligations; provided that if the amount on deposit in the Subordinated Obligations Principal Account is insufficient therefor, the Collateral Agent shall pay each Subordinated Obligation Holder a Pro Rata Amount.

(vi) Subordinated Obligations Reserve Account. On each Subordinated Obligation Interest Payment Date, the Collateral Agent shall transfer to the holder of each Subordinated Obligations Reserve Fund (if any) the amount set forth in a written direction of the Borrower, which shall be no more than the amount necessary so that the balance therein equals the applicable Reserve Requirement; provided that if the amount on deposit in the Subordinated Obligations Reserve Account is insufficient therefor, the Collateral Agent shall transfer to each holder of a Subordinated Obligations Reserve Fund a Pro Rata Amount; and provided further that in the event of any draw on a Reserve Fund Credit Facility held in any Subordinated Obligations Reserve Fund, there shall be deemed a deficiency in such Subordinated Obligations Reserve Fund until the amount of the Reserve Fund Credit Facility is restored to its pre-draw amount.

(c) For the avoidance of doubt nothing in this Agreement or the MIPA affects or diminishes the Holders' rights and remedies under their respective Issuing Instruments, including any right in such Issuing Instrument to accelerate amounts due under the applicable Secured Obligations.

SCHEDULE VI

SECTION 9 OF COLLATERAL AGENCY AGREEMENT

9. Application of Net System Revenues Upon Acceleration. After the date of the declaration of acceleration by the Collateral Agent as provided in Section 8 hereof, the City shall transfer, promptly upon receipt and after payment of Maintenance and Operation Costs of the Water System then due and payable, all Net System Revenues from the Water Utility Fund to the Collateral Agent, and the Collateral Agent shall promptly apply such Net System Revenues in the following order:

(a) First, to the payment of the fees, costs and expenses of the Collateral Agent, if any, in carrying out the provisions of this Agreement, including reasonable compensation to its agents, accountants and counsel;

(b) Second, to the payment of the entire principal amount of the unpaid Parity Installment Obligations and the unpaid principal amount of all other Parity Obligations and the accrued interest thereon, with interest on the overdue installments at the rate or rates of interest applicable thereto in accordance with their respective terms. In the event there are insufficient Net System Revenues to pay the entire principal amount of and accrued interest on all Parity Obligations, then accrued interest shall first be paid and any remaining amount shall be paid on account of principal, and in the event there are insufficient Net System Revenues to fully pay either interest or principal in accordance with the foregoing, then payment shall be prorated within a priority based upon the total amounts due in that priority; and

(c) Third, to the payment of the entire principal amount of the unpaid Subordinated Obligations and the accrued interest thereon, with interest on the overdue installments at the rate or rates of interest applicable thereto in accordance with their respective terms. In the event there are insufficient Net System Revenues to pay the entire principal amount of and accrued interest on all Subordinated Obligations, then accrued interest shall first be paid and any remaining amount shall be paid on account of principal, and in the event there are insufficient Net System Revenues to fully pay either interest or principal in accordance with the foregoing, then payment shall be prorated within a priority based upon the total amounts due in that priority.

SCHEDULE VII

LITIGATION

#	CASE/PARTIES/VENUE	DATE INITIATED	DESCRIPTION
1	<p><i>Patz v. City of San Diego</i> (formerly <i>Coziahr v. Otay Water District</i>)</p> <p>San Diego Superior Court Case #: 37-2015-00023413-CU-MC-CTL</p> <p>Plaintiffs: Joan Mann Chesner Daniel Patz</p> <p>Defendant: City of San Diego (Public Utilities Department)</p> <p>Venue: San Diego Superior Court</p>	<p>7-14-2015: Initial Complaint Filed</p> <p>Complaint subsequently amended several times.</p> <p>9-6-2018: Fourth Amended Complaint Filed</p>	<p>Class Action challenging current and past water rate structure on constitutional grounds. Complaint alleges that tiered water rates charged after 7-1-1997 exceed the proportional cost of water service and therefore are an illegal tax in violation of Prop. 218, requiring voter approval.</p> <p>Note: Original complaint filed by Coziahr & Patz v. Otay Water District; the San Diego County Water Authority; the Metropolitan Water District of Southern California; & City of San Diego. Plaintiffs dismissed San Diego County Water Authority and the Metropolitan Water District of Southern California shortly after original complaint filed. Coziahr is a customer of Otay Water District. Class action case was severed. As of third amended complaint, case is <i>Patz v. City of San Diego</i>. <i>Coziahr v. Otay Water District</i> is now case # 37-2015-00400000-CU-MC-CTL.</p>
2	<p>San Diego Regional Water Quality Control Board NOV R9-2016-0049</p> <p>City of San Diego Wastewater Collection Division</p> <p>Venue: San Diego</p>	<p>1-10-2016: City discovered the sewer spill and reported it</p> <p>2-10-2016: NOV sent via certified mail</p>	<p>Discharge of sewage into Tecolote Creek after heavy thunderstorms in 2016.</p> <p>On 1-5-2016, high velocity flows in Tecolote Creek eroded the creek bank collapsing a 30-foot section of the Tecolote Canyon Trunk Sewer. Due to the conditions, the City did not find the broken sewer main until 1-10-2016. City crews contained the spill by 6:00 p.m. the same day. On 2-10-2016, the Regional Board issued NOV R9-2016-0049 and a Request for Technical Information. On 3-30-2016, the City provided a comprehensive response to the Request for Technical Information.</p> <p>The Regional Board focused on two issues</p>

#	CASE/PARTIES/VENUE	DATE INITIATED	DESCRIPTION
			(1) time it took for the City to find the sewer main break; and (2) whether this sewer main should have been relocated from the canyon to the public right-of-way because erosion risk from Tecolote Creek.
3	<p><i>San Diego County Water Authority v. The Metropolitan Water District of Southern California</i> (5 cases)</p> <p>San Francisco County Superior Court Case #:</p> <ol style="list-style-type: none"> 1. CPF-10-510830 2. CPF-12-512466 3. CPF-14-514004 4. CPF-16-515282 5. CPF-16-515391 <p>Plaintiff: San Diego County Water Authority</p> <p>Defendant: Metropolitan Water District of S. CA</p> <p>Venue: San Francisco County Superior Court</p>	<p>10-21-2010: Petition in case #CPF-10-510830 filed</p> <p>9-10-2012: Petition in case #CPF-12-512466 filed</p> <p>12-2-2014: Petition in case #CPF-14-514004 filed</p> <p>9-27-2016: Petition in #CPF-16-515282 transferred from Los Angeles County Court</p> <p>12-7-2016: Petition in #CPF-16-515391 transferred from Los Angeles County Court</p>	<p>Challenge to MWD cost of service methodology of setting rates.</p> <p>The City of San Diego depends on the San Diego County Water Authority (CWA) for about 90% of its water supply. CWA relies on the Metropolitan Water District of Southern CA (MWD) for most of its water supply via purchase of water from MWD and the wheeling of water through MWD facilities. MWD approved water rate increases totaling 75% since 2006. MWD's water rate structure misallocates water supply costs to the water transportation (wheeling) rate, resulting in an overcharge of \$31 million to CWA in 2011 and cost savings to each of the 25 other member agencies of MWD. CWA estimates these overcharges could reach as much as \$230 million annually by the year 2021.</p>
4	<p><i>Otay Water District v. City of San Diego</i></p> <p>(Initially San Diego Superior Court Case #: 37-2017-00019348-CU-WM-CTL)</p> <p>Transferred: Riverside County Superior Court Case #: RIC-1804278</p> <p>Plaintiff: Otay Water District</p>	<p>5-30-2017: Petition filed</p>	<p>Challenge to rate charged by the City for recycled water per 2003 contract.</p> <p>Complaint alleges constitutional and breach of contract claims against the City (1) the contract between Otay Water District and the City for water district purchases of recycled water from the City; and (2) City's 2015 water ratemaking proceeding, increasing the unitary rate charged to all City consumers of recycled water. Allegations are that the City's unitary water rate is unconstitutional because it exceeds the cost necessary to provide the water and</p>

#	CASE/PARTIES/VENUE	DATE INITIATED	DESCRIPTION
	Defendant: City of San Diego Venue: As of 2-2-2018, per stipulation, Riverside County Superior Court		maintain the system. Plaintiff also alleges a breach of contract relating to the unitary water rate and the City's conduct during the term of the contract. Plaintiff's goal is to get out from under the contract. The contract became burdensome for Plaintiff in January 2016 when the City lawfully increased the rate for recycled water.
5	<i>Marks v. City of San Diego</i> San Diego Superior Court Case #: 37-2018-00023240 Plaintiff: Miller Marks Defendant: City of San Diego Venue: San Diego Superior Court	3-20-2018: Petition filed	Challenge to the funding for the Public Utilities Department's Advance Metering Infrastructure System. Plaintiff challenges the Department's allocation of 50% of the cost of the system to the Sewer Enterprise. Plaintiffs class action complaint alleges that PUD improperly used money from the Sewer Enterprise Fund to pay for expenses of the Water Enterprise. As a result, Plaintiffs allege that the sewer rates exceeded the proportional cost of sewer service and therefore are an illegal tax in violation of Prop. 218, requiring a voter approval.
6	<i>University City Community Foundation v. City of San Diego</i> San Diego Superior Court Case #: 37-2018-0002340 Plaintiff: University City Community Foundation Defendant: City of San Diego (Public Utilities Department) Venue: San Diego Superior Court	5-9-2018: Petition filed	On April 10, 2018, the City Council approved the Pure Water Project. This lawsuit is a generalized challenge to the entire project under CEQA. It is likely the claims will be narrowed to address the pipeline alternatives analysis.

SCHEDULE VIII

GOVERNMENTAL APPROVALS

Permit	Obtained	Remaining
North City Morena Blvd Pump Station and Pipeline		
California Department of Transportation (Caltrans)	✓	
San Diego Metropolitan Transit System (MTS)	✓	
San Diego Metropolitan Transit System (MTS) & North County Transit District (NCTD)		✓
Regional Water Quality Control Board (RWQCB) MS4 Permit Compliance		✓
County of San Diego Air Pollution Control District (APCD) Authority to Construct		✓
City of San Diego DSD Site Development Permit	✓	
City of San Diego DSD Plan Review		✓
US Army Corps of Engineers (USACOE) 404		✓
California Department of Fish & Wildlife (CDFW) 1602 Streambed Alteration		✓
USACOE 408		✓
North City Water Reclamation Plant Expansion Early Site Work		
City of San Diego DSD Site Development Permit	✓	
City of San Diego DSD Plan Review	✓	
North City Water Reclamation Plant Expansion & Influent Conveyance		
County of San Diego Hazardous Materials Division		✓
RWQCB MS4 Permit Compliance	✓	
County of San Diego APCD Authority to Construct		✓
City of San Diego DSD Site Development Permit	✓	
City of San Diego DSD Plan Review		✓
City Fire – Rescue Department Preconstruction Plan Review		✓
Federal Aviation Administration (FAA) Notice of Construction	✓	
North City Pure Water Facility Mass Grading and Clearing		
USACOE 404		✓
RWQCB 401		✓
North City Pure Water Facility		
RWQCB MS4 Permit Compliance	✓	

Permit	Obtained	Remaining
City of San Diego DSD Site Development Permit	✓	
City of San Diego DSD Plan Review		✓
City Fire – Rescue Department Preconstruction Plan Review	✓	
FAA Notice of Construction	✓	
County of San Diego APCD Authority to Construct		✓
County of San Diego Hazardous Materials Division	✓	
North City Pure Water Pipeline		
California Department of Transportation (Caltrans)	✓	
Burlington Northern Santa Fe Railway (BNSF)	✓	
San Diego MTS & NCTD	✓	
RWQCB MS4 Permit Compliance		✓
City of San Diego DSD Site Development Permit	✓	
City of San Diego DSD Plan Review	✓	
USACOE 404		✓
CDFW 1602 Streambed Alteration		✓
North City Pure Water Pump Station		
RWQCB MS4 Permit Compliance		✓
City of San Diego DSD Site Development Permit	✓	
City of San Diego DSD Plan Review		✓
USACOE 404		✓
RWQCB 401		✓
Metro Biosolids Center Improvements		
County of San Diego APCD Authority to Construct		✓
RWQCB MS4 Permit Compliance	✓	
City of San Diego DSD Site Development Permit	✓	
City of San Diego DSD Building Permit Plan Review		✓
City of San Diego Solid Waste Local Enforcement Agency Plan Review		✓
FAA Notice of Construction	✓	
MCAS Miramar Site Approval		✓
Miramar Reservoir Pump Station Improvements		
California Division of Safety of Dams (DSOD)		✓
County of San Diego APCD Authority to		✓

Permit	Obtained	Remaining
Construct		
City of San Diego DSD Site Development Permit	✓	
City of San Diego DSD Plan Review		✓

SCHEDULE 12(n)**PRINCIPAL PROJECT CONTRACTS****A. Existing Principal Project Contracts (effective as of the date of this Agreement)**

Contract	Date	Parties	Description
Metropolitan Biosolids Center (MBC) Improvements (H176825)	6/2/2017	CH2M Hill Engineers	Pure Water Phase 1 Project Design Contract
North City Water Reclamation Plant (NCWRP) Expansion and PWF Influent Conveyance (H166722)	11/17/2016	CH2M Hill Engineers	Pure Water Phase 1 Project Design Contracts
Pure Water Facility (H176846)	6/6/2017	Carollo Engineers	Pure Water Phase 1 Project Design Contracts
Morena Pump Station WW Force Main and Brine Conveyance System (H166635)	12/9/2016	AECOM	Pure Water Phase 1 Project Design Contracts
Pure Water Pump Station and Pipeline (North City Conveyance System) (H156508)	4/1/2016	HDR Engineering	Pure Water Phase 1 Project Design Contracts
Pure Water North City Public Art Project (H166774)	1/30/2017	Christian Moeller Studio, LLC	Pure Water Phase 1 Project Design Contracts
As-Needed Construction Manager – Treatment Facilities (H176935)	7/26/2018	Parsons/Black & Veatch	Pure Water Phase 1 Project Construction Management Contract
As-Needed Construction Manager – Conveyance Facilities (H176955)	4/30/2018	CH2M Hill Engineers	Pure Water Phase 1 Project Construction Management Contract
Contract Between the City of San Diego and The National Water Research Institute for Independent Advisory	9/22/2015	NWRI	Other Pure Water Agreements

Contract	Date	Parties	Description
Panel			
As-Needed Real Property Appraisal, Acquisition, and Relocation Assistance (H166608)	6/20/2016	Clark Land Resources	Other Pure Water Agreements
As-Needed Engineering Technical Services Consultant for Pure Water (H156303)	1/5/2015	Stantec Consulting	Other Pure Water Agreements
Specialized Technical Support Services for NCPWF and DPWF (H186591)	2/27/2018	Trussell Technologies, Inc.	Specialized Technical Support Services for NCPWF and DPWF
As-Needed Engineering Consultant Services 2015-2018 (H146292)	6/3/2015	Kleinfelder	As-Needed Engineering Consultant Services 2015-2018
As-Needed Engineering Consultant Services (H166753)	2/22/2017	Kleinfelder	As-Needed Engineering Consultant Services
As-Needed Engineering Consultant Services (H166754)	3/2/2017	Carollo Engineers	As-Needed Engineering Consultant Services
As-Needed Environmental Services (H166750)	2/22/2017	Helix	As-Needed Environmental Services
As-Needed Environmental Services (H156463)	1/4/2016	Dudek	As-Needed Environmental Services

B. Expected Additional Principal Project Contracts (expected to either be executed, or are executed and expected to become effective, at a future date)

Contract	Expected Effective Date	Parties	Description
Miramar Water Treatment Plant Improvements	TBD	TBD	Design – If needed
Morena Pump Station	8/2019	TBD	Construction
Morena Pipeline and Water Main	8/2019	TBD	Construction

Contract	Expected Effective Date	Parties	Description
Replacements			
NCWRP Expansion – Site/Mass Grading and NCPWF – Clearing and Grubbing	4/2019	TBD	Construction
NCWRP Expansion and Influent Conveyance	10/2019	TBD	Construction
NCWRP Equalization Basins	8/2019	TBD	Construction
NCPWF and North City Pure Water Pump Station	8/2019	TBD	Construction
North City Pure Water Pipeline and Dechlorination Facility	10/2019	TBD	Construction
Sub-Aqueous Pipeline and Miramar Reservoir Pump Station Improvements	6/2020	TBD	Construction
Metropolitan Biosolids Center (MBC) Improvements	9/2019	TBD	Construction
Miramar Water Treatment Plant Improvements	6/2020	TBD	Construction – If needed

SCHEDULE 12(r)

ENVIRONMENTAL MATTERS

University City Community Foundation v. City of San Diego, Case No. 37-2018-00023240

On May 9, 2018, the University City Community Foundation filed a Complaint for Declaratory Relief and Injunctive Relief and Petition for Mandate under the California Environmental Quality Act (CEQA) (UCCF Petition). The UCCF Petition challenges the City of San Diego's (City) approval of the North City Pure Water Project and certification of the Environmental Impact Report (EIR). The UCCF Petition does not provide any specific CEQA claims but makes a generic claim that the project and EIR were illegally approved. While there are no specific CEQA claims in the UCCF Petition, based upon the comments by the UCCF Attorney during the administrative process, it is likely the UCCF will argue the City failed to consider a reasonable range of project alternatives, and that the City specifically failed to consider alternate pipeline alignments through the University City Community. A court likely will find this argument unpersuasive because the City did in fact study a number of alternatives. The UCCF is not confined to this claim; it can argue any claim raised in the administrative process. Based on the City's evaluation of claims raised in the administrative process, and in light of the deferential standard of review, the City likely can defend against those other theories. However, it should be noted that litigation always involves some level of unforeseeable risk.

If the court unexpectedly finds in favor of Plaintiff on the claim that the City failed to consider alternate pipeline alignments, the most likely outcome is to delay that portion of the project while the City performs additional environmental analysis. In addition to approximately \$150,000 to \$300,000 in Plaintiff's attorney's fees, staff's attempt to quantify the cost of the delay is as follows: Analyzing a different alignment could cause a delay of up to 2.5 years, and the estimated cost of that delay is roughly \$130 million. This cost is comprised mostly of escalation, and also includes the cost of additional environmental analyses and engineering/design needed for a 30% design. All of the Phase 1 projects were assumed to be delayed because we cannot complete the full system's commissioning until all of the projects are constructed and have gone through their individual functional testing.

The parties are discussing settlement and UCCF is drafting a proposal.

SCHEDULE 12(t)

INSURANCE

Coverage Summary for the City of San Diego

The City of San Diego, through its participation in the California State Association of Counties Excess Insurance Authority (CSAC EIA), a Joint Powers Authority, purchases several lines of insurance coverage. The below listing reflects the current coverage afforded to the City through CSAC EIA:

Program Name	Current SIR/Deductible	Limits	Coverage Period
Aircraft	None	\$50M	6/30/18-6/30/19
Airport Liability	None	\$50M	6/30/18-6/30/19
Cyber Liability	\$100K	Primary: \$2M/\$20M Excess: \$3M/15M	7/1/18-7/1/19
General Liability	SIR*: \$3M IMCD**: \$2.5M	Primary: \$25M (inclusive of SIR & IMCD) Excess: \$25M	7/1/18-7/1/19
Master Crime	\$25K	\$15M	6/30/18-6/30/20
Pollution	\$250K	\$10M/\$50M	7/1/18-7/1/21
Property	All Risk: \$25K Flood: Varies Earthquake: 2% of Total Insured Value per Unit	All Risk: \$800M Flood: \$600M Earthquake: Up to \$540M	3/31/18-3/31/19
Watercraft	\$1K	\$5M/5M	6/30/18-6/30/19

*SIR: Self-Insured Retention.

**IMCD: Individual Member Corridor Deductible.

The City of San Diego, outside of CSAC EIA, purchases Excess Workers' Compensation insurance with statutory limits. The City is self-insured up to \$5M.

EXHIBIT A
FORM OF WIFIA NOTE
CITY OF SAN DIEGO
WATER SYSTEM PORTION OF PURE WATER SAN DIEGO PROGRAM PHASE I
NORTH CITY PROJECT
(WIFIA – N17125CA)

WIFIA NOTE

Maximum Principal Amount: \$614,000,000

Effective Date: November 14, 2018

Due: August 1, 2057, or if modified in accordance with the WIFIA Loan Agreement, the Final Maturity Date

CITY OF SAN DIEGO, a municipal corporation organized and existing under a charter duly adopted pursuant to the provisions of the Constitution of the State of California (the “**Borrower**”), for value received, hereby promises to pay to the order of the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, acting by and through the Administrator of the United States Environmental Protection Agency, or its assigns (the “**WIFIA Lender**”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements made by the WIFIA Lender (such lesser amount, being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the WIFIA Loan Agreement (as defined below)) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in the WIFIA Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the WIFIA Loan Agreement in accordance with **Exhibit F-1** (*WIFIA Debt Service*) to the WIFIA Loan Agreement, as revised from time to time in accordance with the WIFIA Loan Agreement, until paid in full (which **Exhibit F-1**, as modified from time to time in accordance with the terms of the WIFIA Loan Agreement, is incorporated in and is a part of this WIFIA Note). The WIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit F-1** to the WIFIA Loan Agreement from time to time in accordance with the terms of the WIFIA Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the Borrower thereunder. Absent manifest error, the WIFIA Lender’s determination of such matters as set forth on **Exhibit F-1** to the WIFIA Loan Agreement shall be conclusive evidence thereof; provided that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower’s obligations hereunder or under any other WIFIA Loan Document.

Payments hereon are to be made in accordance with Section 9(f) (*Payment of Principal and Interest – Manner of Payment*) and Section 37 (*Notices; Payment Instructions*) of the WIFIA Loan Agreement as the same become due. Principal of and interest on this WIFIA Note shall be

paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts.

This WIFIA Note has been executed under and pursuant to that certain WIFIA Loan Agreement, dated as of the date hereof, between the WIFIA Lender and the Borrower (the “**WIFIA Loan Agreement**”) and is issued to evidence the obligation of the Borrower under the WIFIA Loan Agreement to repay the loan made by the WIFIA Lender and any other payments of any kind required to be paid by the Borrower under the WIFIA Loan Agreement or the other WIFIA Loan Documents referred to therein. Reference is made to the WIFIA Loan Agreement for all details relating to the Borrower’s obligations hereunder. All capitalized terms used in this WIFIA Note and not defined herein shall have the meanings set forth in the WIFIA Loan Agreement.

This WIFIA Note may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the WIFIA Loan Agreement; provided that such prepayments shall be in principal amounts of at least \$1,000,000 or any integral multiple of \$1 in excess thereof), at any time or from time to time, without penalty or premium, by paying to the WIFIA Lender all or part of the principal amount of the WIFIA Note in accordance with the WIFIA Loan Agreement.

This WIFIA Note shall be subject to prepayment on the terms and conditions set forth in the WIFIA Loan Agreement.

Payment of the obligations of the Borrower under this WIFIA Note is secured pursuant to the MIPA referred to in the WIFIA Loan Agreement.

The obligations of the Borrower under this WIFIA Note, the WIFIA Loan Agreement and the other WIFIA Loan Documents referred to therein are subordinated in right of security to certain senior indebtedness of the Borrower in the manner and to the extent provided in the WIFIA Loan Agreement.

Any delay on the part of the WIFIA Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

All acts, conditions and things required by the Constitution and laws of the State to happen, exist, and be performed precedent to and in the issuance of this WIFIA Note have happened, exist and have been performed as so required. This WIFIA Note is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the State shall govern its construction to the extent such federal laws are not applicable.

IN WITNESS WHEREOF, CITY OF SAN DIEGO has caused this WIFIA Note to be executed in its name and its seal to be affixed hereto and attested by its duly authorized officer, all as of the Effective Date set forth above.

CITY OF SAN DIEGO

By: _____

Name: Rolando Charvel

Title: Chief Financial Officer

APPROVED AS TO FORM:

MARA W. ELLIOTT, City Attorney

By: _____

Name: Bret A. Bartolotta

Title: Deputy City Attorney

(SEAL)

ATTEST:

By: _____

Name: Elizabeth S. Maland

Title: City Clerk

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the Undersigned hereby unconditionally sells, assigns
and transfers unto

(Please Insert Social Security or other identifying number of Assignee(s)):

the within note and all rights thereunder.

Dated: _____

NOTICE: The signature to this assignment
must correspond with the name as it appears
upon the face of the within note in every
particular, without alteration or enlargement
or any change whatever.

EXHIBIT B

ANTICIPATED WIFIA LOAN DISBURSEMENT SCHEDULE

<u>Federal Fiscal Year</u>	<u>Amount</u>
2019	\$71,662,324
2020	\$187,141,536
2021	\$217,767,273
2022	\$125,410,449
2023	\$12,018,418
Total	\$614,000,000

EXHIBIT C

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The undersigned, on behalf of CITY OF SAN DIEGO, hereby certifies that CITY OF SAN DIEGO has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, based on such verification, that, to its knowledge, the Borrower and its principals (as defined in 2 C.F.R. § 180.995):

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(b) Have not within a three (3) year period preceding the Effective Date been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

Dated: November 14, 2018

CITY OF SAN DIEGO

By: _____
Name: Rolando Charvel
Title: Chief Financial Officer

By: _____
Name: Matthew Vespi
Title: Interim Director of Public Utilities
Department

EXHIBIT D

REQUISITION PROCEDURES

This **Exhibit D** sets out the procedures which the Borrower agrees to follow in submitting Requisitions for the disbursement of WIFIA Loan proceeds with respect to the Eligible Project Costs incurred in connection with Water System Portion of the Project. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Sections 2 through 4 set out the circumstances in which the WIFIA Lender may reject or correct Requisitions submitted by the Borrower or withhold a disbursement. The Borrower expressly agrees to the terms hereof, and further agrees that (i) the rights of the WIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the WIFIA Lender under the WIFIA Loan Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the WIFIA Lender to take actions including administrative enforcement action and actions for breach of contract against the Borrower if it fails to carry out its obligations under the WIFIA Loan Agreement during the term thereof.

Section 1. General Requirements. All requests by the Borrower for the disbursement of WIFIA Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the WIFIA Lender, in accordance with Section 37 (*Notices; Payment Instructions*) of the WIFIA Loan Agreement, of a Requisition, in form and substance satisfactory to the WIFIA Lender and completed and executed by the Borrower's Authorized Representative. The form of Requisition is attached as **Appendix One** (*Form of Requisition*) to this **Exhibit D**. Supporting documentation should be submitted with the requisition.

The WIFIA Lender agrees to promptly send to the Borrower in accordance with Section 37 (*Notices; Payment Instructions*) of the WIFIA Loan Agreement, an acknowledgement of receipt of each Requisition in the form attached as **Appendix Two** (*[Approval/Disapproval] of the WIFIA Lender*) to this **Exhibit D** setting forth the date of receipt by the WIFIA Lender of such Requisition and setting forth the Business Day on which disbursement will be made absent denial by the WIFIA Lender. All disbursement requests must be received by the WIFIA Lender at or before 5:00 P.M. (EST) on the first (1st) Business Day of a calendar month in order to obtain disbursement by the fifteenth (15th) day of such calendar month or, if either such day is not a Business Day, the next succeeding Business Day. If a Requisition is approved by the WIFIA Lender, the WIFIA Lender will notify the Borrower of such approval and of the amount so approved.

Section 2. Rejection. A Requisition may be rejected in whole or in part by the WIFIA Lender if it is:

- (a) submitted without signature;
- (b) submitted under signature of a Person other than the Borrower's Authorized Representative;
- (c) submitted after prior disbursement of all proceeds of the WIFIA Loan;

(d) submitted without adequate documentation of Eligible Project Costs incurred or paid. Such documentation shall include invoices for costs incurred or paid;

(e) submitted without an accompanying summary of the progress of construction of the Project and a general description of the work done for which the funds being requisitioned are being applied; or

(f) submitted without a copy of the most recent update to the Project's risk register.

The WIFIA Lender will notify the Borrower of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified in (a), (b) or (d) above must be resubmitted in proper form in order to be considered for approval. If a Requisition exceeds the balance of the WIFIA Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the WIFIA Lender will so notify the Borrower.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the WIFIA Lender, after telephonic or email notification to the Borrower, and will thereafter be treated as if submitted in the corrected amount.

Section 4. Withholding. The WIFIA Lender shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the disbursement of WIFIA Loan proceeds if:

(a) any Default or Event of Default under the WIFIA Loan Agreement shall have occurred and be continuing; or

(b) the Borrower:

(i) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated under the WIFIA Loan Agreement; or

(ii) fails to construct the Project in a manner consistent with the Governmental Approvals with respect to the Project, or in accordance with the highest standards of the Borrower's industry, where such failure prevents or materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the WIFIA Lender to monitor compliance by the Borrower with applicable federal or local law pertaining to the Project or with the terms and conditions of the WIFIA Loan Agreement; or

(iii) fails to observe or comply with any applicable federal or local law, or any term or condition of the WIFIA Loan Agreement; or

(iv) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent – Conditions Precedent to All Disbursements*) of the WIFIA Loan Agreement; or

(v) fails to deliver documentation satisfactory to the WIFIA Lender evidencing Eligible Project Costs claimed for disbursement at the times and in the manner specified by the WIFIA Loan Agreement; provided that in such case the WIFIA Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate documentation evidencing Eligible Project Costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

APPENDIX ONE TO EXHIBIT D

FORM OF REQUISITION

United States Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460
Email: WIFIA@epa.gov

Re: WATER SYSTEM PORTION OF PURE WATER SAN DIEGO PROGRAM PHASE I
NORTH CITY PROJECT (WIFIA – N17125CA)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of November 14, 2018 (the “**WIFIA Loan Agreement**”), by and between CITY OF SAN DIEGO (the “**Borrower**”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “**WIFIA Lender**”), we hereby request disbursement in the amount of \$[_____] in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Water System Portion of the Project. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement. In connection with this Requisition the undersigned does hereby represent and certify the following:

1. This Requisition is Requisition number [_____].
2. The requested date of disbursement is [_____] 15, 20[___] (the “**Disbursement Date**”)[, which is the first Business Day following [_____] 15, 20[_____]].
3. The amounts previously disbursed under the WIFIA Loan Agreement equal, in the aggregate, \$[_____].
4. The amounts hereby requisitioned have been paid, or incurred and approved for payment, by or on behalf of the Borrower, for Eligible Project Costs in connection with the Water System Portion of the Project and have not been paid for or reimbursed by any previous disbursement from WIFIA Loan proceeds.
5. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the WIFIA Loan, and the amount of this Requisition together with the sum of all disbursements of WIFIA Loan proceeds made and to be made for the current Federal Fiscal Year will not exceed the cumulative disbursements through the end of the current Federal Fiscal Year as set forth in the Anticipated WIFIA Loan Disbursement Schedule.
6. All documentation evidencing the Eligible Project Costs to be reimbursed to the Borrower [or to be used to pay Eligible Project Costs previously paid by the Borrower in connection with the Water System Portion of the Project] by the above-requested

disbursement has been delivered by the Borrower at the times and in the manner specified by the WIFIA Loan Agreement.

7. The Borrower has all Governmental Approvals necessary as of the date hereof and as of the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Loan proceeds), for the development, construction, operation and maintenance of the Project and each such Governmental Approval is in full force and effect (and is not subject to any notice of violation, breach or revocation).
8. Each of the insurance policies obtained by the Borrower in satisfaction of the condition in Section 11(a)(xvi) (*Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
9. The Project has been, and is being, constructed in a manner consistent with all plans, specifications, engineering reports and facilities plans previously submitted to and approved by the WIFIA Lender and in accordance with the highest standards of the Borrower's industry.
10. The representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).
11. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Loan proceeds), (a) no Default or Event of Default, and no event of default under any other Related Document and (b) no event that with the giving of notice or the passage of time or both would constitute an event of default under any other Related Document, in each case, has occurred and is continuing.
12. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred since March 16, 2018 and is continuing.
13. Included with this requisition is a summary of the progress of construction of the Project and a general description of the work done for which the funds being requisitioned are being applied.
14. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001, to the extent the Government deems appropriate.
15. A copy of this Requisition has been delivered to each of the above named addressees.
16. The undersigned is duly authorized to execute and deliver this Requisition on behalf of the Borrower.

17. Set forth below are the wire instructions with respect to the Borrower for the requested disbursement.

[Insert Wire Instructions.]

Date: _____

CITY OF SAN DIEGO¹

By: _____

Name: _____

Title: _____

Date: _____

CITY OF SAN DIEGO

By: _____

Name: _____

Title: _____

¹ To be executed by the Borrower's Authorized Representative.

APPENDIX TWO TO EXHIBIT D
[APPROVAL/DISAPPROVAL] OF THE WIFIA LENDER
(To be delivered to the Borrower)

Requisition Number [_____] is [approved in the amount of \$[_____] [approved in part in the amount of \$[_____] [not approved] by the WIFIA Lender (as defined herein) pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of November 14, 2018, by and between City of San Diego (the “**Borrower**”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”).

Any determination, action or failure to act by the WIFIA Lender with respect to the Requisition set forth above, including any withholding of a disbursement, shall be at the WIFIA Lender’s sole discretion, and in no event shall the WIFIA Lender be responsible for or liable to the Borrower for any and/or all consequence(s) which are the result thereof.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY**, acting by and
through the Administrator

By: _____
WIFIA Lender’s Authorized Representative
Name:
Title:
Dated:

EXHIBIT E

COMPLIANCE WITH LAWS

The Borrower shall, and shall require its contractors and subcontractors at all tiers for the Project to, comply in all material respects with any and all applicable federal, state and local laws. The following list of federal laws is illustrative of the type of requirements generally applicable to water and wastewater projects. It is not intended to be exhaustive.

Environmental Authorities

- Archeological and Historic Preservation Act, Pub. L. 93-291, as amended
- Archaeological Resources Protection Act, 16 U.S.C. §§ 470aa-mm
- Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668-668c
- Clean Air Act, Pub. L. 95-95, as amended
- Clean Water Act, Titles III, IV and V, Pub. L. 92-500, as amended
- Coastal Barrier Resources Act, Pub. L. 97-348
- Coastal Zone Management Act, Pub. L. 92-583, as amended
- Endangered Species Act, Pub. L. 93-205, as amended
- Farmland Protection Policy Act, Pub. L. 97-98
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations Environmental Justice, Executive Order 12898
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, as amended by Executive Order 13690, 80 FR 6425, February 4, 2015
- Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265
- Marine Mammal Protection Act, 16 U.S.C. §§ 1361-1407
- Migratory Bird Treaty Act, 16 U.S.C. §§ 703-712
- National Historic Preservation Act, Pub. L. 89-655, as amended
- National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 et seq.
- Native American Graves Protection and Repatriation Act, 25 U.S.C. §§ 3001 et seq.

- Protection of Wetlands, Executive Order 11990 as amended by Executive Order 12608
- Rivers and Harbors Act, 33 U.S.C. 403
- Safe Drinking Water Act, Pub L. 93-523, as amended
- Wild and Scenic Rivers Act, Pub. L. 90-54, as amended
- Wilderness Act, 16 U.S.C. §§ 1131 et seq.

Economic and Miscellaneous Authorities

- Debarment and Suspension, Executive Order 12549
- Demonstration Cities and Metropolitan Development Act, Pub. L. 89 -754, as amended, and Executive Order 12372
- Drug-Free Workplace Act, Pub. L. 100-690
- Labor Standards, 33 U.S.C. § 1372 and 40 U.S.C. §§ 3141-3144, 3146 and 3147
- New Restrictions on Lobbying, Section 319 of Pub. L. 101-121
- Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to federal contracts, grants, or loans under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, and Executive Order 11738
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4601 et seq.)

Civil Rights, Nondiscrimination, Equal Employment Opportunity Authorities

- Age Discrimination Act, Pub. L. 94-135
- Equal Employment Opportunity, Executive Order 11246
- Section 13 of the Clean Water Act, Pub. L. 92-500
- Section 504 of the Rehabilitation Act, Pub. L 93-112 supplemented by Executive Orders 11914 and 11250
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.)
- Participation by Disadvantaged Business Enterprises in Procurement under EPA Financial Assistance Agreements

EXHIBIT F-1

WIFIA DEBT SERVICE

[Attached.]

City of San Diego - Pure Water Phase 1
WIFIA Loan Amortization Schedule (Base Case)

Closing Date 11/14/2018
Loan Amount \$ 614,000,000.00
Interest rate 3.36%
Weight Average Life 25.08

Period Payment Date	Days in Period	Days in Year	Disbursement	Interest Paid	Principal Repayment	Semi-annual Debt Service Payment	Ending Balance
2/1/2019	180	360	\$ 14,490,860.00	\$ 81,148.82	\$ -	\$ 81,148.82	\$ 14,490,860.00
8/1/2019	180	360	\$ 14,490,859.00	\$ 385,456.88	\$ -	\$ 385,456.88	\$ 28,981,719.00
2/1/2020	180	360	\$ 85,361,209.00	\$ 1,323,432.74	\$ -	\$ 1,323,432.74	\$ 114,342,928.00
8/1/2020	180	360	\$ 85,361,209.00	\$ 2,757,501.06	\$ -	\$ 2,757,501.06	\$ 199,704,137.00
2/1/2021	180	360	\$ 118,199,446.50	\$ 4,513,384.10	\$ -	\$ 4,513,384.10	\$ 317,903,583.50
8/1/2021	180	360	\$ 118,199,446.75	\$ 6,499,134.80	\$ -	\$ 6,499,134.80	\$ 436,103,030.25
2/1/2022	180	360	\$ 80,936,206.50	\$ 8,119,705.74	\$ -	\$ 8,119,705.74	\$ 517,039,236.75
8/1/2022	180	360	\$ 80,936,206.55	\$ 9,479,434.01	\$ -	\$ 9,479,434.01	\$ 597,975,443.30
2/1/2023	180	360	\$ 8,012,278.50	\$ 10,124,507.78	\$ -	\$ 10,124,507.78	\$ 605,987,721.80
8/1/2023	180	360	\$ 8,012,278.20	\$ 10,259,114.06	\$ 3,000,000.00	\$ 13,259,114.06	\$ 611,000,000.00
2/1/2024	180	360	\$ -	\$ 10,264,800.00	\$ -	\$ 10,264,800.00	\$ 611,000,000.00
8/1/2024	180	360	\$ -	\$ 10,264,800.00	\$ 2,000,000.00	\$ 12,264,800.00	\$ 609,000,000.00
2/1/2025	180	360	\$ -	\$ 10,231,200.00	\$ -	\$ 10,231,200.00	\$ 609,000,000.00
8/1/2025	180	360	\$ -	\$ 10,231,200.00	\$ 2,000,000.00	\$ 12,231,200.00	\$ 607,000,000.00
2/1/2026	180	360	\$ -	\$ 10,197,600.00	\$ -	\$ 10,197,600.00	\$ 607,000,000.00
8/1/2026	180	360	\$ -	\$ 10,197,600.00	\$ 2,000,000.00	\$ 12,197,600.00	\$ 605,000,000.00
2/1/2027	180	360	\$ -	\$ 10,164,000.00	\$ -	\$ 10,164,000.00	\$ 605,000,000.00
8/1/2027	180	360	\$ -	\$ 10,164,000.00	\$ 2,000,000.00	\$ 12,164,000.00	\$ 603,000,000.00
2/1/2028	180	360	\$ -	\$ 10,130,400.00	\$ -	\$ 10,130,400.00	\$ 603,000,000.00
8/1/2028	180	360	\$ -	\$ 10,130,400.00	\$ 2,000,000.00	\$ 12,130,400.00	\$ 601,000,000.00
2/1/2029	180	360	\$ -	\$ 10,096,800.00	\$ -	\$ 10,096,800.00	\$ 601,000,000.00
8/1/2029	180	360	\$ -	\$ 10,096,800.00	\$ 15,000,000.00	\$ 25,096,800.00	\$ 586,000,000.00
2/1/2030	180	360	\$ -	\$ 9,844,800.00	\$ -	\$ 9,844,800.00	\$ 586,000,000.00
8/1/2030	180	360	\$ -	\$ 9,844,800.00	\$ 15,000,000.00	\$ 24,844,800.00	\$ 571,000,000.00
2/1/2031	180	360	\$ -	\$ 9,592,800.00	\$ -	\$ 9,592,800.00	\$ 571,000,000.00
8/1/2031	180	360	\$ -	\$ 9,592,800.00	\$ 15,000,000.00	\$ 24,592,800.00	\$ 556,000,000.00
2/1/2032	180	360	\$ -	\$ 9,340,800.00	\$ -	\$ 9,340,800.00	\$ 556,000,000.00
8/1/2032	180	360	\$ -	\$ 9,340,800.00	\$ 9,000,000.00	\$ 18,340,800.00	\$ 547,000,000.00
2/1/2033	180	360	\$ -	\$ 9,189,600.00	\$ -	\$ 9,189,600.00	\$ 547,000,000.00
8/1/2033	180	360	\$ -	\$ 9,189,600.00	\$ 8,231,645.13	\$ 17,421,245.13	\$ 538,768,354.87
2/1/2034	180	360	\$ -	\$ 9,051,308.37	\$ -	\$ 9,051,308.37	\$ 538,768,354.87
8/1/2034	180	360	\$ -	\$ 9,051,308.37	\$ 8,515,878.53	\$ 17,567,186.90	\$ 530,252,476.34
2/1/2035	180	360	\$ -	\$ 8,908,241.61	\$ -	\$ 8,908,241.61	\$ 530,252,476.34
8/1/2035	180	360	\$ -	\$ 8,908,241.61	\$ 8,805,757.01	\$ 17,713,998.62	\$ 521,446,719.33
2/1/2036	180	360	\$ -	\$ 8,760,304.89	\$ -	\$ 8,760,304.89	\$ 521,446,719.33
8/1/2036	180	360	\$ -	\$ 8,760,304.89	\$ 9,977,368.87	\$ 18,737,673.76	\$ 511,469,350.46
2/1/2037	180	360	\$ -	\$ 8,592,685.09	\$ -	\$ 8,592,685.09	\$ 511,469,350.46
8/1/2037	180	360	\$ -	\$ 8,592,685.09	\$ 11,945,063.18	\$ 20,537,748.27	\$ 499,524,287.28
2/1/2038	180	360	\$ -	\$ 8,392,008.03	\$ -	\$ 8,392,008.03	\$ 499,524,287.28
8/1/2038	180	360	\$ -	\$ 8,392,008.03	\$ 12,361,284.81	\$ 20,753,292.84	\$ 487,163,002.47
2/1/2039	180	360	\$ -	\$ 8,184,338.45	\$ -	\$ 8,184,338.45	\$ 487,163,002.47
8/1/2039	180	360	\$ -	\$ 8,184,338.45	\$ 15,856,213.79	\$ 24,040,552.24	\$ 471,306,788.68
2/1/2040	180	360	\$ -	\$ 7,917,954.05	\$ -	\$ 7,917,954.05	\$ 471,306,788.68
8/1/2040	180	360	\$ -	\$ 7,917,954.05	\$ 35,443,880.37	\$ 43,361,834.42	\$ 435,862,908.31
2/1/2041	180	360	\$ -	\$ 7,322,496.86	\$ -	\$ 7,322,496.86	\$ 435,862,908.31
8/1/2041	180	360	\$ -	\$ 7,322,496.86	\$ 36,658,729.21	\$ 43,981,226.07	\$ 399,204,179.10
2/1/2042	180	360	\$ -	\$ 6,706,630.21	\$ -	\$ 6,706,630.21	\$ 399,204,179.10
8/1/2042	180	360	\$ -	\$ 6,706,630.21	\$ 37,907,517.15	\$ 44,614,147.36	\$ 361,296,661.95
2/1/2043	180	360	\$ -	\$ 6,069,783.93	\$ -	\$ 6,069,783.93	\$ 361,296,661.95
8/1/2043	180	360	\$ -	\$ 6,069,783.93	\$ 39,208,567.37	\$ 45,278,351.30	\$ 322,088,094.58
2/1/2044	180	360	\$ -	\$ 5,411,079.99	\$ -	\$ 5,411,079.99	\$ 322,088,094.58

8/1/2044	180	360	\$ -	\$ 5,411,079.99	\$ 40,542,129.07	\$ 45,953,209.06	\$ 281,545,965.51
2/1/2045	180	360	\$ -	\$ 4,729,972.23	\$ -	\$ 4,729,972.23	\$ 281,545,965.51
8/1/2045	180	360	\$ -	\$ 4,729,972.23	\$ 41,931,689.22	\$ 46,661,661.45	\$ 239,614,276.29
2/1/2046	180	360	\$ -	\$ 4,025,519.85	\$ -	\$ 4,025,519.85	\$ 239,614,276.29
8/1/2046	180	360	\$ -	\$ 4,025,519.85	\$ 46,023,460.74	\$ 50,048,980.59	\$ 193,590,815.55
2/1/2047	180	360	\$ -	\$ 3,252,325.71	\$ -	\$ 3,252,325.71	\$ 193,590,815.55
8/1/2047	180	360	\$ -	\$ 3,252,325.71	\$ 47,594,365.22	\$ 50,846,690.93	\$ 145,996,450.33
2/1/2048	180	360	\$ -	\$ 2,452,740.37	\$ -	\$ 2,452,740.37	\$ 145,996,450.33
8/1/2048	180	360	\$ -	\$ 2,452,740.37	\$ 12,492,513.79	\$ 14,945,254.16	\$ 133,503,936.54
2/1/2049	180	360	\$ -	\$ 2,242,866.14	\$ -	\$ 2,242,866.14	\$ 133,503,936.54
8/1/2049	180	360	\$ -	\$ 2,242,866.14	\$ 12,919,434.46	\$ 15,162,300.60	\$ 120,584,502.08
2/1/2050	180	360	\$ -	\$ 2,025,819.64	\$ -	\$ 2,025,819.64	\$ 120,584,502.08
8/1/2050	180	360	\$ -	\$ 2,025,819.64	\$ 13,360,944.83	\$ 15,386,764.47	\$ 107,223,557.25
2/1/2051	180	360	\$ -	\$ 1,801,355.77	\$ -	\$ 1,801,355.77	\$ 107,223,557.25
8/1/2051	180	360	\$ -	\$ 1,801,355.77	\$ 13,817,543.43	\$ 15,618,899.20	\$ 93,406,013.82
2/1/2052	180	360	\$ -	\$ 1,569,221.04	\$ -	\$ 1,569,221.04	\$ 93,406,013.82
8/1/2052	180	360	\$ -	\$ 1,569,221.04	\$ 14,289,745.89	\$ 15,858,966.93	\$ 79,116,267.93
2/1/2053	180	360	\$ -	\$ 1,329,153.31	\$ -	\$ 1,329,153.31	\$ 79,116,267.93
8/1/2053	180	360	\$ -	\$ 1,329,153.31	\$ 14,778,085.47	\$ 16,107,238.78	\$ 64,338,182.46
2/1/2054	180	360	\$ -	\$ 1,080,881.47	\$ -	\$ 1,080,881.47	\$ 64,338,182.46
8/1/2054	180	360	\$ -	\$ 1,080,881.47	\$ 15,283,113.61	\$ 16,363,995.08	\$ 49,055,068.85
2/1/2055	180	360	\$ -	\$ 824,125.16	\$ -	\$ 824,125.16	\$ 49,055,068.85
8/1/2055	180	360	\$ -	\$ 824,125.16	\$ 15,805,400.65	\$ 16,629,525.81	\$ 33,249,668.20
2/1/2056	180	360	\$ -	\$ 558,594.43	\$ -	\$ 558,594.43	\$ 33,249,668.20
8/1/2056	180	360	\$ -	\$ 558,594.43	\$ 16,345,536.39	\$ 16,904,130.82	\$ 16,904,131.81
2/1/2057	180	360	\$ -	\$ 283,989.42	\$ -	\$ 283,989.42	\$ 16,904,131.81
8/1/2057	180	360	\$ -	\$ 283,989.42	\$ 16,904,131.81	\$ 17,188,121.23	\$ -
Total			\$ 614,000,000.00	\$ 474,635,212.03	\$ 614,000,000.00	\$ 1,088,635,212.03	

EXHIBIT F-2

EXTENDED MATURITY WIFIA DEBT SERVICE

[Attached.]

City of San Diego - Pure Water Phase 1
WIFIA Loan Amortization Schedule (Extended Maturity Case)

Closing Date 11/14/2018
Loan Amount \$ 614,000,000.00
Interest rate 3.36%
Weight Average Life 25.50

Period Payment Date	Days in Period	Days in Year	Disbursement	Interest Paid	Principal Repayment	Semi-annual Debt Service Payment	Ending Balance
2/1/2019	180	360	\$ 14,490,860.00	\$ 81,148.82	\$ -	\$ 81,148.82	\$ 14,490,860.00
8/1/2019	180	360	\$ 14,490,859.00	\$ 385,456.88	\$ -	\$ 385,456.88	\$ 28,981,719.00
2/1/2020	180	360	\$ 85,361,209.00	\$ 1,323,432.74	\$ -	\$ 1,323,432.74	\$ 114,342,928.00
8/1/2020	180	360	\$ 85,361,209.00	\$ 2,757,501.06	\$ -	\$ 2,757,501.06	\$ 199,704,137.00
2/1/2021	180	360	\$ 118,199,446.50	\$ 4,513,384.10	\$ -	\$ 4,513,384.10	\$ 317,903,583.50
8/1/2021	180	360	\$ 118,199,446.75	\$ 6,499,134.80	\$ -	\$ 6,499,134.80	\$ 436,103,030.25
2/1/2022	180	360	\$ 80,936,206.50	\$ 8,119,705.74	\$ -	\$ 8,119,705.74	\$ 517,039,236.75
8/1/2022	180	360	\$ 80,936,206.55	\$ 9,479,434.01	\$ -	\$ 9,479,434.01	\$ 597,975,443.30
2/1/2023	180	360	\$ 8,012,278.50	\$ 10,124,507.78	\$ -	\$ 10,124,507.78	\$ 605,987,721.80
8/1/2023	180	360	\$ 8,012,278.20	\$ 10,259,114.06	\$ -	\$ 10,259,114.06	\$ 614,000,000.00
2/1/2024	180	360	\$ -	\$ 10,315,200.00	\$ -	\$ 10,315,200.00	\$ 614,000,000.00
8/1/2024	180	360	\$ -	\$ 10,315,200.00	\$ 2,000,000.00	\$ 12,315,200.00	\$ 612,000,000.00
2/1/2025	180	360	\$ -	\$ 10,281,600.00	\$ -	\$ 10,281,600.00	\$ 612,000,000.00
8/1/2025	180	360	\$ -	\$ 10,281,600.00	\$ 2,000,000.00	\$ 12,281,600.00	\$ 610,000,000.00
2/1/2026	180	360	\$ -	\$ 10,248,000.00	\$ -	\$ 10,248,000.00	\$ 610,000,000.00
8/1/2026	180	360	\$ -	\$ 10,248,000.00	\$ 2,000,000.00	\$ 12,248,000.00	\$ 608,000,000.00
2/1/2027	180	360	\$ -	\$ 10,214,400.00	\$ -	\$ 10,214,400.00	\$ 608,000,000.00
8/1/2027	180	360	\$ -	\$ 10,214,400.00	\$ 2,000,000.00	\$ 12,214,400.00	\$ 606,000,000.00
2/1/2028	180	360	\$ -	\$ 10,180,800.00	\$ -	\$ 10,180,800.00	\$ 606,000,000.00
8/1/2028	180	360	\$ -	\$ 10,180,800.00	\$ 2,000,000.00	\$ 12,180,800.00	\$ 604,000,000.00
2/1/2029	180	360	\$ -	\$ 10,147,200.00	\$ -	\$ 10,147,200.00	\$ 604,000,000.00
8/1/2029	180	360	\$ -	\$ 10,147,200.00	\$ 15,000,000.00	\$ 25,147,200.00	\$ 589,000,000.00
2/1/2030	180	360	\$ -	\$ 9,895,200.00	\$ -	\$ 9,895,200.00	\$ 589,000,000.00
8/1/2030	180	360	\$ -	\$ 9,895,200.00	\$ 15,000,000.00	\$ 24,895,200.00	\$ 574,000,000.00
2/1/2031	180	360	\$ -	\$ 9,643,200.00	\$ -	\$ 9,643,200.00	\$ 574,000,000.00
8/1/2031	180	360	\$ -	\$ 9,643,200.00	\$ 15,000,000.00	\$ 24,643,200.00	\$ 559,000,000.00
2/1/2032	180	360	\$ -	\$ 9,391,200.00	\$ -	\$ 9,391,200.00	\$ 559,000,000.00
8/1/2032	180	360	\$ -	\$ 9,391,200.00	\$ 9,000,000.00	\$ 18,391,200.00	\$ 550,000,000.00
2/1/2033	180	360	\$ -	\$ 9,240,000.00	\$ -	\$ 9,240,000.00	\$ 550,000,000.00
8/1/2033	180	360	\$ -	\$ 9,240,000.00	\$ 7,899,446.38	\$ 17,139,446.38	\$ 542,100,553.62
2/1/2034	180	360	\$ -	\$ 9,107,289.31	\$ -	\$ 9,107,289.31	\$ 542,100,553.62
8/1/2034	180	360	\$ -	\$ 9,107,289.31	\$ 8,172,327.18	\$ 17,279,616.49	\$ 533,928,226.44
2/1/2035	180	360	\$ -	\$ 8,969,994.21	\$ -	\$ 8,969,994.21	\$ 533,928,226.44
8/1/2035	180	360	\$ -	\$ 8,969,994.21	\$ 8,450,465.08	\$ 17,420,459.29	\$ 525,477,761.36
2/1/2036	180	360	\$ -	\$ 8,828,026.40	\$ -	\$ 8,828,026.40	\$ 525,477,761.36
8/1/2036	180	360	\$ -	\$ 8,828,026.40	\$ 9,609,935.15	\$ 18,437,961.55	\$ 515,867,826.21
2/1/2037	180	360	\$ -	\$ 8,666,579.49	\$ -	\$ 8,666,579.49	\$ 515,867,826.21
8/1/2037	180	360	\$ -	\$ 8,666,579.49	\$ 11,565,072.73	\$ 20,231,652.22	\$ 504,302,753.48
2/1/2038	180	360	\$ -	\$ 8,472,286.26	\$ -	\$ 8,472,286.26	\$ 504,302,753.48
8/1/2038	180	360	\$ -	\$ 8,472,286.26	\$ 11,968,308.52	\$ 20,440,594.78	\$ 492,334,444.96
2/1/2039	180	360	\$ -	\$ 8,271,218.68	\$ -	\$ 8,271,218.68	\$ 492,334,444.96
8/1/2039	180	360	\$ -	\$ 8,271,218.68	\$ 15,449,807.88	\$ 23,721,026.56	\$ 476,884,637.08
2/1/2040	180	360	\$ -	\$ 8,011,661.91	\$ -	\$ 8,011,661.91	\$ 476,884,637.08
8/1/2040	180	360	\$ -	\$ 8,011,661.91	\$ 35,023,585.88	\$ 43,035,247.79	\$ 441,861,051.20
2/1/2041	180	360	\$ -	\$ 7,423,265.67	\$ -	\$ 7,423,265.67	\$ 441,861,051.20
8/1/2041	180	360	\$ -	\$ 7,423,265.67	\$ 36,224,071.53	\$ 43,647,337.20	\$ 405,636,979.67
2/1/2042	180	360	\$ -	\$ 6,814,701.26	\$ -	\$ 6,814,701.26	\$ 405,636,979.67
8/1/2042	180	360	\$ -	\$ 6,814,701.26	\$ 37,458,005.42	\$ 44,272,706.68	\$ 368,178,974.25
2/1/2043	180	360	\$ -	\$ 6,185,406.77	\$ -	\$ 6,185,406.77	\$ 368,178,974.25
8/1/2043	180	360	\$ -	\$ 6,185,406.77	\$ 38,743,693.97	\$ 44,929,100.74	\$ 329,435,280.28
2/1/2044	180	360	\$ -	\$ 5,534,512.71	\$ -	\$ 5,534,512.71	\$ 329,435,280.28

8/1/2044	180	360	\$ -	\$ 5,534,512.71	\$ 40,061,369.03	\$ 45,595,881.74	\$ 289,373,911.25
2/1/2045	180	360	\$ -	\$ 4,861,481.71	\$ -	\$ 4,861,481.71	\$ 289,373,911.25
8/1/2045	180	360	\$ -	\$ 4,861,481.71	\$ 41,434,499.61	\$ 46,295,981.32	\$ 247,939,411.64
2/1/2046	180	360	\$ -	\$ 4,165,382.12	\$ -	\$ 4,165,382.12	\$ 247,939,411.64
8/1/2046	180	360	\$ -	\$ 4,165,382.12	\$ 45,509,280.12	\$ 49,674,662.24	\$ 202,430,131.52
2/1/2047	180	360	\$ -	\$ 3,400,826.21	\$ -	\$ 3,400,826.21	\$ 202,430,131.52
8/1/2047	180	360	\$ -	\$ 3,400,826.21	\$ 47,062,612.93	\$ 50,463,439.14	\$ 155,367,518.59
2/1/2048	180	360	\$ -	\$ 2,610,174.32	\$ -	\$ 2,610,174.32	\$ 155,367,518.59
8/1/2048	180	360	\$ -	\$ 2,610,174.32	\$ 11,289,172.94	\$ 13,899,347.26	\$ 144,078,345.65
2/1/2049	180	360	\$ -	\$ 2,420,516.21	\$ -	\$ 2,420,516.21	\$ 144,078,345.65
8/1/2049	180	360	\$ -	\$ 2,420,516.21	\$ 12,328,386.89	\$ 14,748,903.10	\$ 131,749,958.76
2/1/2050	180	360	\$ -	\$ 2,213,399.31	\$ -	\$ 2,213,399.31	\$ 131,749,958.76
8/1/2050	180	360	\$ -	\$ 2,213,399.31	\$ 12,749,698.73	\$ 14,963,098.04	\$ 119,000,260.03
2/1/2051	180	360	\$ -	\$ 1,999,204.37	\$ -	\$ 1,999,204.37	\$ 119,000,260.03
8/1/2051	180	360	\$ -	\$ 1,999,204.37	\$ 13,185,408.53	\$ 15,184,612.90	\$ 105,814,851.50
2/1/2052	180	360	\$ -	\$ 1,777,689.51	\$ -	\$ 1,777,689.51	\$ 105,814,851.50
8/1/2052	180	360	\$ -	\$ 1,777,689.51	\$ 13,636,008.33	\$ 15,413,697.84	\$ 92,178,843.17
2/1/2053	180	360	\$ -	\$ 1,548,604.57	\$ -	\$ 1,548,604.57	\$ 92,178,843.17
8/1/2053	180	360	\$ -	\$ 1,548,604.57	\$ 14,102,006.99	\$ 15,650,611.56	\$ 78,076,836.18
2/1/2054	180	360	\$ -	\$ 1,311,690.85	\$ -	\$ 1,311,690.85	\$ 78,076,836.18
8/1/2054	180	360	\$ -	\$ 1,311,690.85	\$ 14,583,930.75	\$ 15,895,621.60	\$ 63,492,905.43
2/1/2055	180	360	\$ -	\$ 1,066,680.82	\$ -	\$ 1,066,680.82	\$ 63,492,905.43
8/1/2055	180	360	\$ -	\$ 1,066,680.82	\$ 15,082,323.83	\$ 16,149,004.65	\$ 48,410,581.60
2/1/2056	180	360	\$ -	\$ 813,297.78	\$ -	\$ 813,297.78	\$ 48,410,581.60
8/1/2056	180	360	\$ -	\$ 813,297.78	\$ 15,597,749.05	\$ 16,411,046.83	\$ 32,812,832.55
2/1/2057	180	360	\$ -	\$ 551,255.59	\$ -	\$ 551,255.59	\$ 32,812,832.55
8/1/2057	180	360	\$ -	\$ 551,255.59	\$ 16,130,788.48	\$ 16,682,044.07	\$ 16,682,044.07
2/1/2058	180	360	\$ -	\$ 280,258.35	\$ -	\$ 280,258.35	\$ 16,682,044.07
8/1/2058	180	360	\$ -	\$ 280,258.35	\$ 16,682,044.07	\$ 16,962,302.42	\$ -
Total			\$ 614,000,000.00	\$ 483,267,228.77	\$ 614,000,000.00	\$ 1,097,267,228.77	

EXHIBIT G-1

OPINIONS REQUIRED OF COUNSEL TO BORROWER

An opinion of the counsel of the Borrower, dated as of the Effective Date, to the effect that:

(a) the Borrower has been duly created and validly exists as a municipal corporation organized and existing under a charter duly adopted pursuant to the provisions of the State (including the [Borrower enabling legislation] as amended to the date hereof) (the “**Borrower Act**”), with good right and power to issue the WIFIA Note;

(b) the Borrower has all requisite right, power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party;

(c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action;

(d) the Borrower has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of the Borrower; enforceable against the Borrower in accordance with its respective terms subject to bankruptcy, insolvency, moratorium, reorganization and other state and federal laws affecting the enforcement of creditors’ rights and to general principles of equity;

(e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any Related Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower;

(f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the State or (iii) to the best of such counsel’s knowledge, after reasonable investigation, conflict with or constitute a breach of or default under any material agreement or other instrument to which the Borrower is a party, or any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject or by which it is bound;

(g) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended; and

(h) except as described in **Schedule VII (Litigation)** to the WIFIA Loan Agreement, to the best of such counsel’s knowledge, after reasonable investigation, there are no actions, suits, proceedings or investigations against the Borrower by or before any court,

arbitrator or any other Governmental Authority that are pending or threatened in connection with the Related Documents or the Project.

EXHIBIT G-2

OPINIONS REQUIRED FROM BOND COUNSEL

An opinion of bond counsel, dated as of the Effective Date, to the effect that:

(a) the Borrower has been duly created and validly exists as a municipal corporation organized and existing under a charter duly adopted pursuant to the provisions of the State (including the [Borrower enabling legislation] as amended to the date hereof) (the “**Borrower Act**”), with good right and power to issue the WIFIA Note;

(b) the Borrower has the right and power under the laws of the State, including the Borrower Act, to enter into the MIPA Documents, the Related Documents and the WIFIA Note, and each has been duly authorized, executed and delivered by the Borrower, is in full force and effect, and constitutes a legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its respective terms and conditions subject to typical exceptions;

(c) the WIFIA Note is (i) secured by the Collateral, (ii) an Obligation entitled to the benefits of an Obligation under the MIPA, (iii) a Subordinated Obligation that is junior in priority to the Parity Obligations and (iv) enforceable (subject to typical exceptions) under the laws of the State without any further action by the Borrower or any other Person;

(d) the WIFIA Note is enforceable (subject to typical exceptions) under the laws of the State without any further action by the Borrower or any other Person, and the obligations under the WIFIA Note are pari passu in right of payment and right of security with all Subordinated Obligations and are senior in right of payment and right of security to all Junior Obligations;

(e) the WIFIA Note is secured by the Collateral. The Collateral Agency Agreement creates the valid and binding assignment and pledge of the Collateral to secure the payment of the principal of, interest on, and other amounts payable in respect of, the WIFIA Note, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act. No documents or instruments are required to be recorded or filed for record in any place to establish, or maintain the validity and enforceability of, the pledge of the Collateral to secure the obligations under the WIFIA Note;

(f) all actions by the Borrower that are required for the application of System Revenues as required under the MIPA, the Collateral Agency Agreement and the WIFIA Loan Agreement have been duly and lawfully made;

(g) the Borrower has complied with all applicable requirements of State law to lawfully pledge the Collateral for the benefit of the WIFIA Lender and to apply the System Revenues as required by the terms of the MIPA, the Collateral Agency Agreement and the WIFIA Loan Agreement;

(h) the Borrower is not entitled to claim governmental immunity in any breach of contract action under the MIPA Documents or the other WIFIA Loan Documents; and

(i) under the laws of the State, an action may be maintained against the Borrower in respect of, or relating to, the MIPA Documents and the other WIFIA Loan Documents.

EXHIBIT H

FORM OF BORROWER'S OFFICER'S CERTIFICATE

Reference is made to that certain WIFIA Loan Agreement, dated as of November 14, 2018 (the “**WIFIA Loan Agreement**”), by and among City of San Diego (the “**Borrower**”) and the United States Environmental Protection Agency (the “**EPA**”), acting by and through the Administrator of the EPA (the “**WIFIA Lender**”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement.

Each of the undersigned, Rolando Charvel and Matthew Vespi, as Borrower's Authorized Representative, does hereby certify on behalf of the Borrower and not in his personal capacity, as of the date hereof:

(a) pursuant to Section 11(a)(ii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit A** are complete and fully executed copies of each MIPA Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement is in full force and effect, and all conditions contained in such documents to the closing of the transactions contemplated thereby have been fulfilled or effectively waived by the WIFIA Lender in its sole discretion;

(b) pursuant to Section 11(a)(vi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit B** is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the Related Documents to which the Borrower is or will be a party, and who have been appointed the Borrower's Authorized Representative in accordance with Section 26 (*Borrower's Authorized Representative*) of the WIFIA Loan Agreement;

(c) the aggregate of all funds committed to the development and construction of the Project as set forth in the Base Case Financial Model and in the Project Budget to pay Total Project Costs are sufficient to carry out the Project, pay all Total Project Costs anticipated for the Project and achieve Substantial Completion by the Projected Substantial Completion Date;

(d) pursuant to Section 11(a)(viii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit C** are complete and fully executed copies of each Existing Principal Project Contract (as listed in Part A of **Schedule 12(n)** (*Principal Project Contracts*)) to the WIFIA Loan Agreement, and each such Existing Principal Project Contract is in full force and effect and has not been amended, amended and restated, modified or supplemented;

(e) the Borrower has obtained all Governmental Approvals necessary to commence construction of the Project and each such Governmental Approval is final, non-appealable and in full force and effect (and is not subject to any notice of violation, breach or revocation);

(f) pursuant to Section 11(a)(x) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit D** is the Base Case Financial Model, which Base Case Financial Model (i) demonstrates that projected System Revenues are sufficient to meet the Loan Amortization Schedule, (ii) demonstrates compliance with the Rate Covenant for each Borrower Fiscal Year through the Final Maturity Date, (iii) reflects principal amortization and interest payment schedules acceptable to the WIFIA Lender and (iv) demonstrates that the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over its useful life;

(g) the Borrower (i) is authorized, pursuant to Sections 5450 and 5451 of the California Government Code and the WIFIA Ordinance, to pledge, assign, and grant the Liens on the Collateral purported to be pledged, assigned, and granted pursuant to the MIPA Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act, (ii) recorded or filed, or caused to be recorded or filed, for record in such manner and in such places as are required all other documents and instruments, and taken or caused to be taken all other actions, as are necessary or desirable to establish and enforce the Lien on the Collateral (for the benefit of the WIFIA Lender and the other Secured Parties) to the extent contemplated by the MIPA Documents or required pursuant to applicable law, and (iii) paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any MIPA Documents or any instruments, certificates or financing statements in connection with the foregoing;

(h) (i) pursuant to Section 11(a)(xiii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit E** is a true, correct and complete copy of the final NEPA Determination, which document has not been revoked or amended on or prior to the date hereof; (ii) the Borrower has complied with all other applicable federal, state or local environmental review and approval requirements with respect to the Project and (iii) the Borrower has complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*);

(i) pursuant to Section 11(a)(xv) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, (i) the Borrower's Federal Employer Identification Number is 95-6000776, (ii) the Borrower's Data Universal Numbering System Number is 826399206, and (iii) the Borrower has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), and attached hereto as **Exhibit F** is evidence of each of (i), (ii) and (iii);

(j) pursuant to Section 11(a)(xvi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit G** are true, correct and complete copies of (i) certificates of insurance or (ii) documents pertaining to the Borrower's self-insurance program, in each case that demonstrate satisfaction of the insurance requirements of Section 14(f) (*Affirmative Covenants*) of the WIFIA Loan Agreement;

(k) pursuant to Section 11(a)(xvii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit H** is a

copy of the Borrower's Organizational Documents, as in effect on the Effective Date, which Organizational Documents are in full force and effect and have not been amended since the date of the last amendment thereto shown on the certificate. Other than the WIFIA Ordinance, there are no additional resolutions or other documents authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the WIFIA Loan Documents to which it is a party, and there are no further instruments or documents necessary, appropriate or advisable to consummate and implement the transactions contemplated by the MIPA Documents and the WIFIA Loan Documents;

(l) the Borrower has duly passed the WIFIA Ordinance, which (i) confirms the terms and conditions of the WIFIA Note and authorizes the execution of the WIFIA Loan Agreement and (ii) is and shall remain in full force and effect;

(m) pursuant to Section 11(a)(xx) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit I** are complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the Effective Date, each of which performance security instruments is (i) in compliance with the requirements for such performance security instrument pursuant to the applicable Principal Project Contract and (ii) is in full force and effect;

(n) the representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other Related Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date;

(o) (i) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (ii) as required pursuant to § 3908(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed eighty percent (80%) of Total Project Costs; and

(p) pursuant to Section 11(a)(xxiii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the Borrower has developed an operations and maintenance plan with respect to the Project that identifies sufficient revenues to operate, maintain and repair the Project during its useful life.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

CITY OF SAN DIEGO

By: _____
Name: Rolando Charvel
Title: Chief Financial Officer

By: _____
Name: Matthew Vespi
Title: Interim Director of Public Utilities
Department

EXHIBIT B TO EXHIBIT H
INCUMBENCY CERTIFICATE

The undersigned certifies that she is the City Clerk of City of San Diego, a municipal corporation organized and existing under a charter duly adopted pursuant to the provisions of the Constitution of the State of California (the “**Borrower**”), and as such she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. She further certifies that, in accordance with Section 26 of that certain WIFIA Loan Agreement, dated as of the date hereof, between the Borrower and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Loan Agreement**”), any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the WIFIA Loan Documents and/or the MIPA Documents as the Borrower’s Authorized Representative (each as defined in the WIFIA Loan Agreement), except that the execution of the WIFIA Loan Agreement and the WIFIA Note (as defined in the WIFIA Loan Agreement) shall be restricted to the Authorized Signatories listed below.

Authorized Signatories

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Rolando Charvel	Chief Financial Officer	_____

Administrative Signatories

Lakshmi Kommi	Director, Debt Management Department	_____
Matthew Vespi	Interim Director, Public Utilities Department	_____
Lee Ann Jones-Santos	Assistant Director (Business Support Branch), Public Utilities Department	_____
John Helminski	Assistant Director (Pure Water & Quality Assurance Branch), Public Utilities Department	_____
Charles Modica	Deputy Director (Finance & Information Technology Division), Public Utilities Department	_____

Scott Clark

Chief Accountant, Department
of Finance

Esther Musau

Principal Accountant,
Department of Finance

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this 14th
day of November, 2018.

CITY OF SAN DIEGO

By: _____
Name: Elizabeth S. Maland
Title: City Clerk

EXHIBIT I
FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460

Project: Water System Portion of Pure Water San Diego Program Phase I North City Project
(WIFIA – N17125CA)

Dear Director:

This notice is provided pursuant to Section 14(g)(i)(A) (*Affirmative Covenants – Notice – Substantial Completion*) of that certain WIFIA Loan Agreement (the “**WIFIA Loan Agreement**”), dated as of November 14, 2018, by and between City of San Diego (the “**Borrower**”) and the United States Environmental Protection Agency, acting by and through its Administrator (the “**WIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this Notice have the meanings assigned to those terms in the WIFIA Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s Authorized Representative and not in my individual capacity, do hereby certify to the WIFIA Lender that:

- (a) on *[insert date Substantial Completion requirements were satisfied]*, the Project satisfied each of the requirements for Substantial Completion set forth in the *[Insert reference to the design-build or similar agreement for the Project]*;
- (b) Substantial Completion has been declared under each of the above-referenced agreements and copies of the notices of Substantial Completion under such agreements are attached to this certification; and
- (c) Substantial Completion, as defined in the WIFIA Loan Agreement, has been achieved.

[Borrower’s Authorized Representative]

EXHIBIT J
FORM OF QUARTERLY REPORT

United States Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460
wifia@epa.gov

Re: Water System Portion of Pure Water San Diego Program Phase 1 North City Project (WIFIA N-17125CA)

This Quarterly Report for the period of *[insert relevant quarterly period]* is provided pursuant to Section 22(b) (*Project Oversight and Monitoring – Reporting*) of the WIFIA Loan Agreement, dated as of November 14, 2018 (the “**WIFIA Loan Agreement**”), by and between the City of San Diego (“**the Borrower**” or “**City**”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this Quarterly Report have the meanings assigned to those terms in the WIFIA Loan Agreement.

(i) Amount Expended

Principal Project Contract (PPC)	Original Contract Amount	Change Orders to Date	Total Estimated Costs	Estimated Costs to Complete	Costs Earned or Paid Through Previous Reporting Period	Current Reporting Period Costs Earned or Paid	Total Costs Earned or Paid to Date	% Costs Earned or Paid to Date
TOTAL								

(ii) Construction Progress, Governmental Approvals, Updated Schedule

Assessment of overall construction progress:

--

Notice of receipt of relevant Governmental Approvals since the Effective Date and since the prior Quarterly Report:

Assessment of construction progress compared to Construction Schedule provided in the prior Quarterly Report:

Principal Project Contract (PPC)	NTP Effective Date	Original Time for Completion (days)	Original Contract Completion (date)	Time Added to Date (days)	Current Contract Completion (date)	Days Elapsed	% Contract Duration

(iii)Substantial Completion Date

Current projection for the Substantial Completion Date: _____

If the current projection for the substantial completion date is later than previously reported in the prior Quarterly Report, provide a description in reasonable detail for such projected delay:

--

(iv)Material Problems (if any)

Detailed description of all material problems (including actual and anticipated cost and/or schedule overruns, if any), encountered or anticipated in connection with the construction of the Project during the preceding quarter, together with an assessment of how such problems may impact the Construction Schedule and the meeting of critical dates thereunder and a detailed description of the proposed solutions to any such problems:

--

(v) Proposed or pending change orders of a material nature

--

(vi)Other matters related to the Project

--

Date: _____

CITY OF SAN DIEGO

By: _____

Name: _____

Title: _____

COLLATERAL AGENCY, ACCOUNT AND ASSIGNMENT AGREEMENT

By and Among

**U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agent**

CITY OF SAN DIEGO

SAN DIEGO FACILITIES AND EQUIPMENT LEASING CORPORATION

PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO

**U.S. BANK NATIONAL ASSOCIATION,
as Trustee**

And

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Dated as of November 14, 2018

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COLLATERAL AGENCY, ACCOUNT AND ASSIGNMENT AGREEMENT

THIS COLLATERAL AGENCY, ACCOUNT AND ASSIGNMENT AGREEMENT (this “Agreement”) is made and entered into as of November 14, 2018, by and among U.S. Bank National Association, as collateral agent (the “Collateral Agent”), the City of San Diego (the “Borrower” or the “City”), the San Diego Facilities and Equipment Leasing Corporation (the “Corporation”), the Public Facilities Financing Authority of the City of San Diego (the “Authority”), U.S. Bank National Association, as trustee (the “Trustee”) under the Indenture (defined below), and the United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “WIFIA Lender”). In consideration of the mutual covenants and agreements set forth herein, the parties hereto covenant and agree as follows:

1. Definitions.

“Account” means an account established under Section 6 hereof.

“Agreement” means this Collateral Agency, Account and Assignment Agreement.

“Authority” means the Public Facilities Financing Authority of the City of San Diego, a joint exercise of powers agency established and existing under the laws of the State of California.

“Borrower” means the City of San Diego, a municipal corporation organized and existing under its Charter duly adopted pursuant to the provisions of the Constitution of the State of California.

“Charter” means the Charter of the City as it now exists or may hereafter be amended, and any new or successor Charter.

“City” has the meaning provided in the preamble hereto.

“Class” means any group of Holders that, collectively, hold a single series, tranche or other identifiable category of Obligations under a single credit agreement, loan agreement, note purchase agreement, indenture or other evidence of indebtedness.

“Collateral” means all of the interests of the Borrower in (a) the Net System Revenues and (b) the Funds, the Accounts and any subaccounts (other than the Parity Obligations Reserve Account and the Subordinated Obligations Reserve Account) including all amounts on deposit therein or credited thereto.

“Collateral Agent” means U.S. Bank National Association, a national banking association organized under the laws of the United States of America, as Collateral Agent under this Agreement.

“Corporation” means the San Diego Facilities and Equipment Leasing Corporation, a nonprofit public benefit corporation organized and existing under and by virtue of the laws of the State of California.

“Counterpart” means a Counterpart to this Agreement in the form of Exhibit C hereto.

“Fund” means a fund established under Section 6 hereof.

“Holder Representative” means any agent, trustee or other representative appointed by a Class of Holders to act on their behalf pursuant to the terms of an Issuing Instrument relating to the Obligations held by such Class of Holders.

“Holder” or “Holders” means the holders of or lenders under Secured Obligations including, without limitation, any such holder or lender that has executed this Agreement, but excluding the Corporation and the Authority, and any Person who becomes such a holder or lender under Secured Obligations including, without limitation, any Person that becomes a party to this Agreement pursuant to execution of a Counterpart; provided, however, that with respect to Sections 4(a), 7(b), 15, 18, 19, 21, 27, 30 and 31 of this Agreement “Holder” or “Holders” shall mean and refer to the Holder Representative for each Class that has a Holder Representative and not to the individual Holders of such Class.

“Indenture” means the Indenture, dated as of January 1, 2009, as amended and supplemented from time to time, by and between the Authority and the Trustee.

“Installment Payments” means the Installment Payments payable by the City under and pursuant to the MIPA and any supplement to the MIPA as well as any amounts payable by the City on any Obligations under and pursuant to any Issuing Instrument.

“Issuing Instrument” shall mean any indenture, trust agreement, loan agreement, lease, installment purchase agreement, including the MIPA and any supplement to the MIPA, or other instrument under which Obligations are issued or created.

“Maintenance and Operation Costs of the Water System” means (a) any Qualified Take or Pay Obligation, and (b) the reasonable and necessary costs spent or incurred by the City for maintaining and operating the Water System, calculated in accordance with generally accepted accounting principles, including, without limitation, the costs of the purchase, delivery or storage of water, the reasonable expenses of maintenance and repair and other expenses necessary to maintain and preserve the Water System in good repair and working order, and including administrative costs of the City attributable to the Water System, including the Project and the MIPA, salaries and wages of employees of the Water System, payments to such employees’ retirement systems (to the extent paid from System Revenues), overhead, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms of the Obligations, including the MIPA, including any amounts required to be deposited in the Rebate Fund pursuant to a Tax Certificate, and fees and expenses payable to any Credit Provider (other than in repayment of a Credit Provider Reimbursement Obligation), but excluding in all cases (1) depreciation, replacement and obsolescence charges or reserves therefor, (2) amortization of intangibles or other bookkeeping entries of a similar nature, (3) costs of capital additions, replacements, betterments, extensions or improvements to the Water System which under generally accepted accounting principles are chargeable to a capital account or to a reserve for depreciation, (4) charges for the payment of principal of and interest on any

general obligation bond heretofore or hereafter issued for Water System purposes, and (5) charges for the payment of principal of and interest on any debt service on account of any Obligation on a parity with or subordinate to the Installment Payments.

“MIPA” means Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2009, as amended and supplemented, by and between the City and Corporation.

“Net System Revenues” means, for any Fiscal Year, the System Revenues for such Fiscal Year, less the Maintenance and Operation Costs of the Water System for such Fiscal Year.

“Obligations” means (a) obligations of the City for money borrowed (such as bonds, notes or other evidences of indebtedness) or as installment purchase payments under any contract (including Installment Payments), or as lease payments under any financing lease (determined to be such in accordance with generally accepted accounting principles), the principal of and interest on which are payable from Net System Revenues; (b) obligations to replenish any debt service reserve funds with respect to such obligations of the City; (c) obligations secured by or payable from any of such obligations of the City; and (d) obligations of the City payable from Net System Revenues under (1) any contract providing for payments based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices, (2) any contract to exchange cash flows or a series of payments, or (3) any contract to hedge payment, currency, rate spread or similar exposure, including but not limited to interest rate cap agreements.

“Parity Obligation Holders” means the holders of or lenders under Parity Obligations.

“Parity Obligation Interest Payment Date” means the date any interest is due and payable on any Parity Obligation.

“Parity Obligation Principal Payment Date” means the date any principal or mandatory sinking fund redemptions are due and payable with respect to any Parity Obligation.

“Parity Obligations” means Obligations the payment of which is secured by a first priority lien on and pledge of Net System Revenues pursuant to MIPA Section 5.01(a) and Section 5 hereof.

“Parity Obligations Interest Account” means the account of that name established and maintained by the Collateral Agent under Section 6 hereof.

“Parity Obligations Payment Fund” means the fund of that name established and maintained by the Collateral Agent under Section 6 hereof.

“Parity Obligations Principal Account” means the account of that name established and maintained by the Collateral Agent under Section 6 hereof.

“Parity Obligations Reserve Account” means the account of that name established and maintained by the Collateral Agent under Section 6 hereof.

“Parity Obligations Reserve Fund” means each reserve fund established under an Issuing Instrument and held by a Holder Representative or other trustee, fiscal agent or Person

designated by an Issuing Instrument to establish and maintain a reserve account or fund for the benefit of the Holders of Parity Obligations issued or incurred under such Issuing Instrument.

“Payment Date” means each date that is a Parity Obligation Interest Payment Date, a Parity Obligation Principal Payment Date, a Subordinated Obligation Interest Payment Date or a Subordinated Obligation Principal Payment Date.

“Permitted Investments” means the investments set forth in Exhibit A hereto.

“Person” means any corporation, partnership, trust, limited liability company, financial institution, insurance company, pension fund, mutual fund, government agency or natural person.

“Pro Rata Amount” means, with respect to any payment to be made to a Holder under Section 7(b) hereof from funds held by the Collateral Agent in the applicable Account, an amount equal to the total amount of funds held by the Collateral Agent in such Account and available to make such payment to all Holders entitled to receive such payment multiplied by the quotient of the amount of such payment due and payable on such date to such Holder divided by the amount of such payment due and payable on such date to all Holders entitled to receive such payment.

“Required Holders” has the meaning provided in Section 8 hereof.

“Reserve Requirement” means, with respect to each Parity Obligations Reserve Fund (if any) and each Subordinated Obligations Reserve Fund (if any), the amount required to be maintained therein by the Issuing Instrument under which such Parity Obligations Reserve Fund or Subordinated Obligations Reserve Fund is mandated and established.

“Secured Obligations” means Parity Obligations and/or Subordinated Obligations, as the context requires.

“Subordinated Obligation Holders” means the holders of or lenders under Subordinated Obligations.

“Subordinated Obligation Interest Payment Date” means the date any interest is due and payable on any Subordinated Obligation.

“Subordinated Obligation Principal Payment Date” means the date any principal or mandatory sinking fund redemptions are due and payable with respect to any Subordinated Obligation.

“Subordinated Obligations” means Obligations the payment of which is secured by a second priority lien on and pledge of Net System Revenues that is junior and subordinate to the lien on and pledge of Net System Revenues securing Parity Obligations pursuant to MIPA Section 5.01(b) and Section 5 hereof.

“Subordinated Obligations Interest Account” means the account of that name established and maintained by the Collateral Agent under Section 6 hereof.

“Subordinated Obligations Payment Fund” means the fund of that name established and maintained by the Collateral Agent under Section 6 hereof.

“Subordinated Obligations Principal Account” means the account of that name established and maintained by the Collateral Agent under Section 6 hereof.

“Subordinated Obligations Reserve Account” means the account of that name established and maintained by the Collateral Agent under Section 6 hereof.

“Subordinated Obligations Reserve Fund” means each reserve fund established under an Issuing Instrument and held by a Holder Representative or other trustee, fiscal agent or Person designated by an Issuing Instrument to establish and maintain a reserve account or fund for the benefit of the Holders of Subordinated Obligations issued or incurred under such Issuing Instrument.

“System Revenues” means all income, rents, rates, fees, charges and other moneys derived from the ownership or operation of the Water System, including, without limiting the generality of the foregoing:

(a) all income, rents, rates, fees, charges, or other moneys derived by the City from the water services or facilities, and commodities or byproducts, including hydroelectric power, sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the Water System, and including, without limitation, investment earnings on the operating reserves to the extent that the use of such earnings is limited to the Water System by or pursuant to law, and earnings on any Reserve Fund for Obligations, but only to the extent that such earnings may be utilized under the Issuing Instrument for the payment of debt service for such Obligations;

(b) standby charges and Capacity Charges* derived from the services and facilities sold or supplied through the Water System;

(c) the proceeds derived by the City directly or indirectly from the lease of a part of the Water System;

(d) any amount received from the levy or collection of taxes which are solely available and are earmarked for the support of the operation of the Water System;

(e) amounts received under contracts or agreements with governmental or private entities and designated for capital costs for the Water System*; and

(f) grants for maintenance and operations received from the United States of America or from the State of California; provided, however, that System Revenues shall not include: (1) in all cases, customers’ deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the City; and (2) the proceeds of borrowings; but

* These items of System Revenue may not be used to pay Maintenance and Operation Costs of the Water System.

(g) notwithstanding the foregoing, there shall be deducted from System Revenues any amounts transferred into a Rate Stabilization Fund as contemplated by MIPA Section 6.08(b), and any amounts transferred from current System Revenues to the Secondary Purchase Fund as contemplated by MIPA Section 6.08(c), and there shall be added to System Revenues any amounts transferred out of such Rate Stabilization Fund or the Secondary Purchase Fund to pay Maintenance and Operation Costs of the Water System.

“Trustee” means U.S. Bank National Association, as successor trustee under the Indenture.

“Water System” means any and all facilities, properties, improvements and works at any time owned, controlled or operated by the City as part of the public utility system of the City for water purposes, for the development, obtaining, conservation, production, storage, treatment, transmission, furnishing and distribution of water and its other commodities or byproducts for public and private use (whether located within or without the City), and any related or incidental operations designated by the City as part of the Water System, including reclaimed and re-purified water.

“Water Utility Fund” means the fund by that name established under the Charter and held by the Borrower.

“WIFIA Lender” has the meaning provided in the preamble hereto.

2. Purpose. The Borrower and the Holders desire to establish, for the sole benefit of the Holders, a collateral agency arrangement in accordance with the laws of the State of California for the deposit of Net System Revenues in collateral accounts established hereunder, for the purposes set forth herein, including, the payment of amounts due under the Secured Obligations. Except as otherwise defined herein, all terms defined in the MIPA shall have the same meaning for the purposes of this Agreement as in the MIPA.

3. Appointment.

(a) U.S. Bank National Association is hereby appointed as the collateral agent for the benefit of the Holders.

(b) The Collateral Agent accepts such appointment and agrees to act as the Collateral Agent in accordance with this Agreement and the MIPA.

(c) Each of the Holders hereby authorizes and directs the Collateral Agent to act in strict accordance with the terms of this Agreement and the MIPA. Subject to the terms hereof, the Collateral Agent agrees, for the benefit of the Holders, to administer and enforce this Agreement as Collateral Agent, and, among other remedies, to foreclose upon, collect and dispose of the Collateral and to apply the proceeds therefrom, for the benefit of the Holders, as provided herein, and otherwise to perform its duties and obligations as the Collateral Agent hereunder in accordance with the terms hereof.

(d) The Collateral Agent shall be fully justified in failing or refusing to take any action hereunder unless the Collateral Agent shall first receive written direction from the

Required Holders and is indemnified by the Borrower to its reasonable satisfaction, including the indemnification from the Borrower pursuant to Section 20(e) hereof, from and against any liability or expense related thereto. Subject to the foregoing, the Collateral Agent shall act under this Agreement in accordance with any written directions by the Required Holders. The Collateral Agent shall not incur any liability for any determination made or instruction or direction given by the Required Holders.

(e) The Collateral Agent may conclusively rely upon the information provided to it by the Borrower under Section 4(a)(vi) regarding the identity of the Holders unless a different Holder is identified in writing to the Collateral Agent by the Borrower.

4. Required Information.

(a) Promptly following the appointment of the Collateral Agent, upon the incurrence of each subsequent Obligation, and upon any change in the following, the Borrower shall provide in writing to the Collateral Agent (which shall provide copies of the same to each Holder that has requested copies thereof) the following information:

- (i) copies of the Issuing Instrument and related documents for each Obligation;
- (ii) a schedule of Payment Dates for each Obligation;
- (iii) a schedule of payment amounts for each Obligation;
- (iv) the outstanding principal amount of each Obligation;
- (v) the designation of each Obligation as a Parity Obligation or a Subordinated Obligation;
- (vi) the names and payment instructions of each Holder with respect to each Obligation; and
- (vii) the Reserve Requirement for each Parity Obligations Reserve Fund and each Subordinated Obligations Reserve Fund, if any.

(b) Not later than two (2) business days before each Payment Date, the Borrower shall provide in writing to the Collateral Agent the following information:

- (i) the aggregate amount of interest payable on each Parity Obligation on the upcoming Payment Date;
- (ii) the aggregate amount of principal or mandatory sinking fund redemption payable on each Parity Obligation on the upcoming Payment Date;
- (iii) the aggregate amount of interest payable on each Subordinated Obligation on the upcoming Payment Date;

- (iv) the aggregate amount of principal or mandatory sinking fund redemption payable on each Subordinated Obligation on the upcoming Payment Date;
- (v) the amount of interest payable to each Holder or Holder Representative of each Parity Obligation on the upcoming Payment Date;
- (vi) the amount of principal or mandatory sinking fund redemption payable to each Holder or Holder Representative of each Parity Obligation on the upcoming Payment Date;
- (vii) the amount of interest payable to each Holder or Holder Representative of each Subordinated Obligation on the upcoming Payment Date;
- (viii) the amount of principal or mandatory sinking fund redemption payable to each Holder or Holder Representative of each Subordinated Obligation on the upcoming Payment Date;
- (ix) copies of any invoice or statement received by the Borrower with respect to any of the foregoing;
- (x) written direction to transfer amounts to the Person maintaining any Parity Obligations Reserve Fund or any Subordinated Obligations Reserve Fund in order to restore the same to its Reserve Requirement; and
- (xi) in the event of any anticipated deficiency in the transfers and payments to be made by the Collateral Agent under Section 7, the calculation of the Pro Rata Amounts.

5. Lien and Pledge.

(a) All Parity Obligations, including Parity Installment Payment Obligations, shall be secured by a first priority lien on and pledge of Net System Revenues. The City does hereby grant to the Collateral Agent, for the benefit of the Holders of Parity Obligations, a first priority lien on and pledge of Net System Revenues to secure Parity Obligations. All Parity Obligations shall be of equal rank with each other without preference, priority or distinction of any Parity Obligations over any other Parity Obligations; provided that a Parity Obligation that by its terms under certain circumstances can require the full amount of the Parity Obligation to become payable in installments over not less than five years from the occurrence of the triggering event shall not be deemed to create any impermissible preference, priority or distinction as to lien or otherwise of such Parity Obligation over any other Parity Obligation.

(b) All Subordinated Obligations, including Subordinated Installment Payment Obligations, shall be secured by a second priority lien on and pledge of Net System

Revenues that is junior and subordinate to the lien on and pledge of Net System Revenues securing Parity Obligations. The City does hereby grant to the Collateral Agent, for the benefit of the Holders of Subordinated Obligations, a second priority lien on and pledge of Net System Revenues to secure Subordinated Obligations. All Subordinated Obligations shall be of equal rank with each other without preference, priority or distinction of any Subordinated Obligations over any other Subordinated Obligations; provided that a Subordinated Obligation that by its terms under certain circumstances can require the full amount of the Subordinated Obligation to become payable in installments over not less than five years from the triggering event shall not be deemed to create any impermissible preference, priority or distinction as to lien or otherwise of such Subordinated Obligation over any other Subordinated Obligation; and provided further that a Subordinated Obligation that by its terms under certain circumstances must be treated as, or becomes, a Parity Obligation shall not be deemed to create any impermissible preference, priority or distinction as to lien or otherwise of such Subordinated Obligation over any other Subordinated Obligation.

(c) The City does hereby grant to the Collateral Agent, for the benefit of the Holders of Parity Obligations, a first priority lien on and pledge of the Funds and Accounts established pursuant to Section 6 below and any and all amounts held therein, or credited thereto, to secure the Parity Obligations; provided that any amounts held in or credited to the Parity Obligations Reserve Account shall be held solely for the benefit of and payment to the Holders of the Class of Obligations for which Parity Obligations Reserve Funds have been established pursuant to the Issuing Instrument under which such Class of Obligations was created. The City does hereby grant to the Collateral Agent, for the benefit of the Holders of Subordinated Obligations, a second priority lien on and pledge of the Funds and Accounts established pursuant to Section 6 below and any and all amounts held therein, or credited thereto, to secure the Subordinated Obligations; provided that any amounts held in or credited to the Subordinated Obligations Reserve Account shall be held solely for the benefit of and payment to the Holders of the Class of Obligations for which Subordinated Obligations Reserve Funds have been established pursuant to the Issuing Instrument under which such Class of Obligations was created.

(d) The Collateral Agent may, but shall not be obligated to, take such action as it deems necessary to perfect or continue the perfection of the security interests on the Collateral held for the benefit of the Holders. The Collateral Agent shall not release any of the Collateral except upon payment in full of all Secured Obligations.

6. Establishment of Funds and Accounts. There are hereby established in the custody of the Collateral Agent the following Funds and Accounts to be held and maintained by the Collateral Agent for the benefit of the Holders, in accordance with this Agreement:

(a) the Parity Obligations Payment Fund, in which there shall be established:

- (i) the Parity Obligations Interest Account;
- (ii) the Parity Obligations Principal Account; and

- (iii) the Parity Obligations Reserve Account; and
- (b) the Subordinated Obligations Payment Fund, in which there shall be established:
 - (i) the Subordinated Obligations Interest Account;
 - (ii) the Subordinated Obligations Principal Account; and
 - (iii) the Subordinated Obligations Reserve Account.

The Collateral Agent is further directed to establish within the Funds and Accounts established above such accounts and subaccounts as may be requested in writing by the Borrower for each Class of Obligations. All funds on deposit in the Accounts and the subaccounts therein shall remain uninvested; provided that upon written direction from the Borrower to the Collateral Agent amounts held overnight may be invested in Permitted Investments until applied pursuant to Sections 7 and 9 hereof. Earnings on any investment amounts held in each Account hereunder shall be credited to such Account. The Collateral Agent shall not be liable for any loss on any investments of amounts held hereunder or for complying with any written direction concerning investments which the Collateral Agent reasonably believes to be authorized by the Borrower.

7. Application of Net System Revenues and Other Amounts.

(a) The Borrower shall collect and deposit all System Revenues when and as received in the Water Utility Fund and shall make each of the transfers of Net System Revenues from the Water Utility Fund to the Collateral Agent for deposit in the Accounts set forth in Section 6 above pursuant to Section 5.02 of the MIPA.

(b) The Collateral Agent shall make the following withdrawals, transfers and payments from the Accounts in the amounts, at the times and for the purposes specified in this Section 7(b).

(i) Parity Obligations Interest Account. On each Parity Obligation Interest Payment Date and on each other date on which the following amounts shall be due and payable, the Collateral Agent shall pay to the Holders of Parity Obligations, from the Parity Obligations Interest Account, the interest due and payable, including any amounts overdue and payable, on such date to Holders of Parity Obligations; provided that if the amount on deposit in the Parity Obligations Interest Account is insufficient therefor, the Collateral Agent shall pay each Parity Obligation Holder a Pro Rata Amount.

(ii) Parity Obligations Principal Account. On each Parity Obligation Principal Payment Date and on each other date on which the following amounts shall be due and payable, the Collateral Agent shall pay to the Holders of Parity Obligations, from the Parity Obligations Principal Account, the principal and mandatory sinking fund redemptions due and payable, including any amounts overdue and payable, on such date to Holders of Parity Obligations; provided that if the amount on deposit in the Parity

Obligations Principal Account is insufficient therefor, the Collateral Agent shall pay each Parity Obligation Holder a Pro Rata Amount.

(iii) Parity Obligations Reserve Account. On each Parity Obligation Interest Payment Date, the Collateral Agent shall transfer to the holder of each Parity Obligations Reserve Fund (if any) the amount set forth in a written direction of the Borrower, which shall be no more than the amount necessary so that the balance therein equals the applicable Reserve Requirement; provided that if the amount on deposit in the Parity Obligations Reserve Account is insufficient therefor, the Collateral Agent shall transfer to each holder of a Parity Obligations Reserve Fund a Pro Rata Amount; and provided further that in the event of any draw on a Reserve Fund Credit Facility held in any Parity Obligations Reserve Fund, there shall be deemed a deficiency in such Parity Obligations Reserve Fund until the amount of the Reserve Fund Credit Facility is restored to its pre-draw amount.

(iv) Subordinated Obligations Interest Account. On each Subordinated Obligation Interest Payment Date and on each other date on which the following amounts shall be due and payable, the Collateral Agent shall pay to the Holders of Subordinated Obligations, from the Subordinated Obligations Interest Account, the interest due and payable, including any amounts overdue and payable, on such date to Holders of Subordinated Obligations; provided that if the amount on deposit in the Subordinated Obligations Interest Account is insufficient therefor, the Collateral Agent shall pay each Subordinated Obligation Holder a Pro Rata Amount.

(v) Subordinated Obligations Principal Account. On each Subordinated Obligation Principal Payment Date and on each other date on which the following amounts shall be due and payable, the Collateral Agent shall pay to the Holders of Subordinated Obligations, from the Subordinated Obligations Principal Account, the principal and mandatory sinking fund redemptions due and payable, including any amounts overdue and payable, on such date to Holders of Subordinated Obligations; provided that if the amount on deposit in the Subordinated Obligations Principal Account is insufficient therefor, the Collateral Agent shall pay each Subordinated Obligation Holder a Pro Rata Amount.

(vi) Subordinated Obligations Reserve Account. On each Subordinated Obligation Interest Payment Date, the Collateral Agent shall transfer to the holder of each Subordinated Obligations Reserve Fund (if any) the amount set forth in a written direction of the Borrower, which shall be no more than the amount necessary so that the balance therein equals the applicable Reserve Requirement; provided that if the amount on deposit in the Subordinated Obligations Reserve Account is insufficient therefor, the Collateral Agent shall transfer to each holder of a Subordinated Obligations Reserve Fund a Pro Rata Amount; and provided further that in the event of any draw on a Reserve Fund Credit Facility held in any Subordinated Obligations Reserve Fund, there shall be deemed a deficiency in such Subordinated Obligations Reserve Fund until the amount of the Reserve Fund Credit Facility is restored to its pre-draw amount.

(c) For the avoidance of doubt nothing in this Agreement or the MIPA affects or diminishes the Holders' rights and remedies under their respective Issuing Instruments, including any right in such Issuing Instrument to accelerate amounts due under the applicable Secured Obligations.

8. Remedies. During the continuance of an Event of Default under the MIPA, (including, without limitation, any Event of Default specified in any Supplement, Authorizing Ordinance or Issuing Instrument) the Collateral Agent shall upon the written direction of the Holders (or, in the case of any Class that has a Holder Representative, the Holder Representative on behalf of such Class) of 25% or more of the aggregate principal amount of all Series of Parity Installment Obligations Outstanding, or after all Parity Installment Obligations have been paid in full, the Holders (or, in the case of any Class that has a Holder Representative, the Holder Representative on behalf of such Class) of 25% or more of the aggregate principal amount of all Series of Subordinated Obligations Outstanding (the "Required Holders"), voting collectively as a single class, by notice in writing to the City, declare the entire unpaid principal amount of all Series of Parity Installment Obligations (or all Subordinated Obligations, as the case may be) and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained herein or in the MIPA to the contrary notwithstanding; provided, that with respect to a Series of Parity Installment Obligations (or Series of Subordinated Obligations, as the case may be) which is credit enhanced by a Credit Support Instrument, acceleration shall not be effective unless the declaration is consented to by the related Credit Provider. The foregoing provisions, however, are subject to the condition that if at any time after the entire principal amount of all Parity Installment Obligations (or all Subordinated Obligations, as the case may be) and the accrued interest thereon shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the City shall deposit with the Collateral Agent a sum sufficient to pay the unpaid principal amount of all such Parity Installment Obligations (or all such Subordinated Obligations, as the case may be) and the unpaid payments of any other Parity Obligations (or Subordinated Obligations, as the case may be) due prior to such declaration and the accrued interest thereon, with interest on such overdue installments at the rate or rates applicable thereto in accordance with their terms, and the reasonable fees and expenses of the Collateral Agent including, without limitation fees and expenses of the attorneys, agents and advisors of the Collateral Agent, and any and all other defaults known to the Collateral Agent (other than in the payment of the entire principal amount of the unpaid Parity Installment Obligations (or unpaid Subordinated Obligations, as the case may be) and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Collateral Agent or provision deemed by the Collateral Agent to be adequate shall have been made therefor, then and in every such case the Collateral Agent, by written notice to the City, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Subject to this Section, the Holders of Subordinated Obligations may enforce the provisions of the MIPA or the applicable Issuing Instrument for their benefit by appropriate legal proceedings. The payment of Subordinated Obligations will be subordinated in right of payment to payment of the Parity Obligations (except for any payment in respect of Subordinated Obligations from the Reserve Fund securing such Subordinated Obligations). Upon the

occurrence and during the continuance of any Event of Default, Holders of Parity Obligations will be entitled to receive payment thereof in full before the Holders of Subordinated Obligations are entitled to receive payment thereof (except for any payment in respect of Subordinated Obligations from the Reserve Fund securing such Subordinated Obligations) and the Holders of the Subordinated Obligations will become subrogated to the rights of the Holders of Parity Obligations to receive payments with respect thereto.

9. Application of Net System Revenues Upon Acceleration. After the date of the declaration of acceleration by the Collateral Agent as provided in Section 8 hereof, the City shall transfer, promptly upon receipt and after payment of Maintenance and Operation Costs of the Water System then due and payable, all Net System Revenues from the Water Utility Fund to the Collateral Agent, and the Collateral Agent shall promptly apply such Net System Revenues in the following order:

(a) First, to the payment of the fees, costs and expenses of the Collateral Agent, if any, in carrying out the provisions of this Agreement, including reasonable compensation to its agents, accountants and counsel;

(b) Second, to the payment of the entire principal amount of the unpaid Parity Installment Obligations and the unpaid principal amount of all other Parity Obligations and the accrued interest thereon, with interest on the overdue installments at the rate or rates of interest applicable thereto in accordance with their respective terms. In the event there are insufficient Net System Revenues to pay the entire principal amount of and accrued interest on all Parity Obligations, then accrued interest shall first be paid and any remaining amount shall be paid on account of principal, and in the event there are insufficient Net System Revenues to fully pay either interest or principal in accordance with the foregoing, then payment shall be prorated within a priority based upon the total amounts due in that priority; and

(c) Third, to the payment of the entire principal amount of the unpaid Subordinated Obligations and the accrued interest thereon, with interest on the overdue installments at the rate or rates of interest applicable thereto in accordance with their respective terms. In the event there are insufficient Net System Revenues to pay the entire principal amount of and accrued interest on all Subordinated Obligations, then accrued interest shall first be paid and any remaining amount shall be paid on account of principal, and in the event there are insufficient Net System Revenues to fully pay either interest or principal in accordance with the foregoing, then payment shall be prorated within a priority based upon the total amounts due in that priority.

10. Other Remedies of the Collateral Agent. The Collateral Agent (acting at the direction of the Required Holders) shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce, on behalf of the Holders, the rights of the Holders against the City or any councilmember, officer or employee thereof, and to compel the City or any such councilmember, officer or employee to perform and carry out its or his duties under the Law and the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Holders; or

(c) by suit in equity upon the happening of an Event of Default to require the City and its councilmembers, officers and employees to account as the trustee of an express trust.

11. Non-Waiver.

(a) Nothing in this Agreement shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the Installment Payments to the Collateral Agent at the respective due dates or upon prepayment from the Net System Revenues and the other funds herein committed for such payment, or shall affect or impair the right of the Collateral Agent, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

(b) A waiver of any default or breach of duty or contract by the Collateral Agent shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies of the Collateral Agent or the Holders on any such subsequent default or breach of duty or contract. No delay or omission by the Collateral Agent to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Collateral Agent by the Law or by this Agreement may be enforced and exercised from time to time and as often as shall be deemed expedient by the Collateral Agent.

(c) If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Collateral Agent, the City and the Collateral Agent shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

12. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Collateral Agent is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by law.

13. Assignment by Corporation. The Corporation hereby irrevocably and absolutely assigns, transfers and conveys to the Collateral Agent and any successor thereto all of the rights, privileges, duties and obligations of the Corporation under Article VIII of the MIPA.

14. Rights of Corporation. Notwithstanding anything to the contrary set forth herein, the MIPA or any other Issuing Instrument, from and after the date of this Agreement, the Corporation shall not have any rights, pursuant to this Agreement, the MIPA or any other Issuing Instrument, (a) as a grantee of a pledge of Net System Revenues, (b) to accelerate or otherwise declare any Obligations immediately due and payable, (c) to exercise any remedies by or on behalf of the Holders (or Owners) or otherwise with respect to the Net System Revenues following an Event of Default or (d) to receive and/or apply any Net System Revenues to the

payment of any Obligations following an Event of Default, and any provisions purporting to provide such rights to the Corporation shall be null and void. The City purchases projects from the Corporation under the MIPA and each MIPA Supplement in consideration of Installment Payments by the City to the Corporation. The Corporation unconditionally, irrevocably and absolutely assigns and transfers to the Authority its rights to such Installment Payments pursuant to Assignment Agreements. Nothing herein shall nullify or adversely affect any past, present or future assignment or transfer of the rights of the Corporation to receive Installment Payments under the MIPA or any MIPA Supplement to the Authority or any pledge, assignment or transfer of such rights by the Authority to the Trustee.

15. Statements. The Collateral Agent shall furnish monthly statements to the Borrower and, upon written request, to the Holders at the addresses provided by such Holders to the Collateral Agent for this purpose, including the addresses specified in the Section entitled "Notices to the Parties," no later than the fifth day of the following calendar month, which shall set forth in reasonable detail the account balances, receipts, disbursements, transfers, investment transactions, and accruals for each of the Accounts during such month.

16. Compensation. The Collateral Agent's fees shall be paid by the Borrower in accordance with the Fee Schedule attached hereto as Exhibit B, as such Fee Schedule may be amended with the written agreement of the Collateral Agent and the Borrower. The Collateral Agent shall submit invoices to the Borrower at the address specified in the Section entitled "Notices to the Parties." Following receipt of such invoices, the Borrower shall submit payment to the Collateral Agent at the address specified in the Section entitled "Notices to the Parties." For the avoidance of doubt, neither any Holder, nor any official, employee or agent thereof, shall be liable or otherwise responsible for any of the Collateral Agent's fees or any indemnification or other obligation to the Collateral Agent hereunder.

17. Termination. This Agreement shall terminate upon the payment in full of all Obligations. Upon termination, any amount remaining in all Funds, Accounts and subaccounts hereunder shall immediately be transferred by the Collateral Agent to the Borrower or its assignees.

18. Resignation and Removal. The Collateral Agent may at any time resign by giving at least thirty (30) days written notice to the Borrower and each Holder, and the Collateral Agent may be removed by the Borrower and all Holders at any time with or without cause, but neither such resignation nor removal shall take effect until the appointment of a successor Collateral Agent. In the event of any resignation or removal of the Collateral Agent, a successor Collateral Agent shall be appointed by an instrument in writing executed by the Collateral Agent, the Borrower and each Holder that is a party to this Agreement. Such successor Collateral Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to the Borrower and each Holder. Upon delivery of such instrument, such successor Collateral Agent shall, without any further act or deed, be fully vested with all the powers, rights, duties and obligations of the Collateral Agent hereunder and the predecessor Collateral Agent shall deliver all moneys and securities held by it hereunder to such successor Collateral Agent.

19. Assignment by Collateral Agent. The services to be performed by the Collateral Agent are personal in character and neither this Agreement nor any duties or obligations

hereunder may be assigned or delegated by the Collateral Agent unless first approved by the Borrower and each Holder that is a party to this Agreement by written instrument executed and approved in the same manner as this Agreement.

20. Liability of the Collateral Agent.

(a) The Collateral Agent incurs no liability to make any disbursements pursuant to this Agreement except from funds held in the Accounts. At all times, whether or not a default by the Borrower shall have occurred and be continuing, the Collateral Agent shall perform only such actions as are expressly set forth herein, and no implied duties or responsibilities shall be imposed upon the Collateral Agent. The Collateral Agent may consult with counsel and the advice or opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered hereunder in good faith reliance upon and in accordance with such advice or opinion of counsel.

(b) The Collateral Agent shall not be liable with respect to any action taken, suffered or omitted by it in good faith: (i) reasonably believed by it to be authorized or within the discretion or rights or powers conferred on it by this Agreement; or (ii) in accordance with any written direction or request of the Borrower or the Holders. In the absence of willful misconduct or gross negligence on its part, the Collateral Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any requisition, note, notice, resolution, consent, facsimile, certificate, affidavit, letter, telegram, teletype message, statement, order or other document which appears on its face to be genuine and correct and to have been signed or sent by the proper person or persons.

(c) No provisions of this Agreement shall require the Collateral Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its authority. The Collateral Agent shall not be liable for losses on investments made at the direction of the Borrower or otherwise made in accordance with this Agreement. Before taking any action hereunder, the Collateral Agent shall have the right, but not the obligation, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that required as a condition to such action, deemed desirable by the Collateral Agent in establishing the necessity or appropriateness of such action. The Collateral Agent may rely and be protected in relying on any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party, and shall not be required to make any investigation into the facts or matters contained therein. If it chooses to make such inquiry, the Collateral Agent shall have access to the books, records or premises of the Borrower, personally or through agents of the Collateral Agent or attorneys, at any reasonable time upon reasonable notice.

(d) The Collateral Agent shall bear no responsibility for the recitals contained herein. The Collateral Agent may execute any of its powers or perform its duties through attorneys, agents or receivers. The Collateral Agent shall be under no obligation to exercise any of the rights or powers vested in the Collateral Agent by this Agreement unless the Collateral Agent has received from the Borrower security or indemnity against the costs, expenses and liabilities which might be incurred by the Collateral Agent in compliance with such request or direction. In acting as Collateral Agent hereunder, the Collateral Agent acts solely in its capacity as Collateral Agent hereunder and not in its individual or personal capacity. The Collateral Agent shall be entitled to conclusively rely and act upon and in compliance with the written instructions or directions of the Borrower or the Holders, as applicable.

(e) To the extent permitted by law, the Borrower hereby agrees to indemnify the Collateral Agent and its respective officers, employees and agents against any loss, liability, action, suit, judgment, demand or cost (each a "Liability") and to pay or reimburse the Collateral Agent for any expense (including counsel fees and disbursements and, allocated costs of in-house counsel) which may be incurred by the Collateral Agent or any officer, employee or agent thereof by reason of, or in connection with, the Collateral Agent's appointment and its duties as Collateral Agent, except such Liability as shall result from Collateral Agent's gross negligence or willful misconduct in the performance of its other obligations and duties hereunder. The obligation of the Borrower under this paragraph shall survive the resignation or removal of the Collateral Agent.

(f) In no event shall the Collateral Agent be liable for incidental, indirect, special, consequential or punitive damages or penalties (including, but not limited to lost profits), even if the Collateral Agent has been advised of the likelihood of such damages or penalty and regardless of the form of action, except in the case of its own negligence or willful misconduct. The Collateral Agent shall not be responsible for delays or failures in performance resulting from acts beyond its control, including without limitation, acts of God, strikes, lockouts, riots, acts of war or terror, epidemics, fire, communication line failures, computer viruses, intrusions or attacks, power failures, earthquakes or other disasters.

21. Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, all notices, requests and communications sent by the parties shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, and shall be addressed as follows:

If to the Borrower:	City of San Diego City Administration Bldg. 202 C Street, Mail Station 9B San Diego, California 92101 Attn: Chief Financial Officer
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With a copy to:	<p>City of San Diego City Administration Bldg. 202 C Street, Mail Station 7B San Diego, California 92101 Attn: Debt Management Director</p>
If to the Corporation:	<p>San Diego Facilities and Equipment Leasing Corporation c/o Office of the City Attorney 1200 Third Street, Suite 1620, Mail Station 59 San Diego, California 92101 Attn: Deputy City Attorney for Finance and Disclosure</p>
With a copy to:	<p>City of San Diego City Administration Building 202 C Street, Mail Station 9A San Diego, California 92101 Attn: Chief Financial Officer</p>
If to the Authority:	<p>Public Facilities Financing Authority of the City of San Diego c/o Office of the City Attorney 1200 Third Street, Suite 1620, Mail Station 59 San Diego, California 92101 Attn: Deputy City Attorney for Finance and Disclosure</p>
With a copy to:	<p>City of San Diego City Administration Building 201 C Street, Second Floor San Diego, California 92101 Attn: City Clerk</p>
If to the Collateral Agent:	<p>U.S. Bank National Association 633 West Fifth Street, 24th Floor Los Angeles, CA 90071 Attention: Global Corporate Trust</p>
If to the Trustee:	<p>U.S. Bank National Association 633 West Fifth Street, 24th Floor Los Angeles, CA 90071 Attention: Global Corporate Trust</p>

If to the EPA:

United States Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460
Attention: Jorianne Jernberg
Email: WIFIA@epa.gov

Written communications to any other Holder shall be addressed to such Holder at the address provided by any Holder to the Collateral Agent for such purpose including, without limitation, the address set forth in the Counterpart, if any, signed by such Holder.

Each such notice, request or communication shall be effective (i) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 21 (or in accordance with the latest unrevoked written direction from the receiving party) and (ii) if given by email, when such email is delivered to the address specified in this Section 21 (or in accordance with the latest unrevoked written direction from the receiving party).

22. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns, subject to Section 19 above in the case of the Collateral Agent.

23. Merger of Prior Agreements. The parties to this Agreement intend that this Agreement (including all of the attached exhibits, which are incorporated into this Agreement by reference) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

24. Interpretation of this Agreement. The article, section and other headings of this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of any provision contained herein. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa, and each gender reference shall be deemed to include the other and the neuter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

25. Non-Liability of Borrower Officials, Employees and Agents. Notwithstanding anything to the contrary in this Agreement, no council member, officer, employee or agent of the Borrower shall be personally liable to the Collateral Agent, its successors and assigns, in the event of any default or breach by Borrower or for any amount which may become due to the

Collateral Agent, its successors and assigns, or for any obligation of the Borrower under this Agreement.

26. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

27. Amendment. This Agreement may not be amended or otherwise modified except by a written instrument executed by (i) the Collateral Agent, the Borrower, the Corporation, the Authority and each Holder that is a party to this Agreement, including any Holder that becomes a party through execution of a Counterpart; and (ii) each other Holder; provided that the consent of any Holder not party hereto will not be required for any amendment or modification to (a) cure any ambiguity, defect or inconsistency, (b) make any change that would provide additional rights or benefits to all Holders, (c) make, complete or confirm any grant of Collateral for the benefit of all Holders, (d) correct any typographical errors, drafting mistakes or other similar mistakes that do not modify the rights, benefits and obligations of the parties hereto, (e) provide for additional obligations of the Borrower or liens on the Collateral securing such obligations to the extent permitted by the terms of the Secured Obligations or (f) upon receipt by the Collateral Agent of an opinion of counsel selected by the Borrower and addressed to the Collateral Agent and the Borrower to the effect that such amendment or modification will not materially adversely affect the interests of the Holders that are not parties to this Agreement.

28. Governing Law. This Agreement shall be construed in accordance with the laws of the State of California.

29. Counterparts. This Agreement may be executed in several counterparts (including Counterparts), each one of which shall constitute an original and all collectively shall constitute but one instrument.

30. Additional Parties. Any Holder may become a party to this Agreement upon (i) the execution and delivery by such Holder to the Collateral Agent and the Borrower of a Counterpart and (ii) the acknowledgment and acceptance of such Counterpart by the Collateral Agent and the Borrower. Thereupon, such Holder shall be as fully a party to this Agreement as if such Holder were an original signatory to this Agreement. The Collateral Agent shall distribute copies of each executed, acknowledged and accepted Counterpart to each Holder that is a party to this Agreement and each other Holder that has requested such copies at the address provided to the Collateral Agent for such purpose, including such addresses as are specified in the Section entitled "Notices to the Parties."

31. Third Party Beneficiaries. All undertakings, agreements, representations and warranties contained in this Agreement are solely for the benefit of each Holder, including without limitation the Holders executing this Agreement and any additional Holder that becomes a party hereto pursuant to Section 30. Any Holder not executing this Agreement or a Counterpart is nonetheless entitled to the full rights, privileges and benefits hereof to the same extent as if such Holder were a signatory hereof and shall be a third party beneficiary of this Agreement. There are no other Persons that are intended to be benefited in any way by this Agreement.


[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Borrower, the Corporation, the Authority, the Trustee, the WIFIA Lender and the Collateral Agent have caused this Agreement to be executed by their duly authorized representatives.


CITY OF SAN DIEGO

By: 
Name: Rolando Charvel
Title: Chief Financial Officer


SAN DIEGO FACILITIES AND
EQUIPMENT LEASING CORPORATION

By: 
Name: Kevin L. Faulconer
Title: President

APPROVED AS TO FORM:
MARA W. ELLIOTT, City Attorney

By: 
Name: Bret A. Bartolotta
Title: Deputy City Attorney

PUBLIC FACILITIES FINANCING
AUTHORITY OF THE CITY OF SAN
DIEGO

By: 
Name: Myrtle Cole
Title: Chair

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____

Name: Ilse Vlach

Title: Vice President

U.S. BANK NATIONAL ASSOCIATION,
as the Collateral Agent

By: _____

Name: Ilse Vlach

Title: Vice President

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By: 

Name: Andrew R. Wheeler

Title: Acting Administrator

EXHIBIT A

Permitted Investments

Amounts held overnight in the Funds and Accounts established under Section 6 of the Agreement may be invested until applied pursuant to Sections 7 and 9 of the Agreement in any cash sweep or similar account arrangement of or available to the Collateral Agent, the investments of which are limited to investments described in clauses (1), (2), (3) and (5) below and any money market fund, the entire investments of which are limited to investments described in clauses (1), (2), (3) and (4) below and which money market fund is rated, at the time of purchase, by at least one national statistical rating organization in its highest rating category (without regard to any refinement or gradation of such rating category by a plus or minus sign or a numeral).

(1) Federal Securities or Federal Certificates where:

“Federal Securities” means direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury) or evidence of ownership in a portion thereof (which may consist of specified portions of interest thereon and obligations of the Resolution Funding Corporation which constitute interest strips) if held by a custodian on behalf of the Collateral Agent; obligations the principal of and interest on which are unconditionally guaranteed by the United States of America; and pre-refunded municipal obligations rated, at the time of purchase, by Moody’s Investors Service and Standard & Poor’s Ratings Services in their highest rating category (without regard to any refinement or gradation of such rating category by a plus or minus sign or a numeral); provided that “structured securities” (including flip notes, range notes, inverse floaters and step-ups) will not be considered Federal Securities; provided further that floaters (based on single, interest rate based indices) and callable securities of the above-enumerated agencies may be treated as Federal Securities; and

“Federal Certificates” means evidences of indebtedness or ownership of proportionate interests in future principal and interest payments of Federal Securities, including depository receipts thereof, wherein (i) a bank or trust company acts as custodian and holds the underlying Federal Securities; (ii) the owner of the Federal Certificate is a real party in interest with the right to proceed directly and individually against the obligor of the underlying Federal Securities; and (iii) the underlying Federal Securities are held in trust in a special account, segregated from the custodian’s general assets, and are not available to satisfy any claim of the custodian or any person claiming through the custodian, or any person to whom the custodian may be obligated.

(2) The following listed obligations of government-sponsored agencies which are not backed by the full faith and credit of the United States of America:

(A) Federal Home Loan Mortgage Corporation (FHLMC) senior debt obligations and Participation certificates (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts);

(B) Farm Credit System (formerly Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives) consolidated system-wide bonds and notes;

(C) Federal Home Loan Banks (FHL Banks) consolidated debt obligations;

(D) Federal National Mortgage Association (FNMA) senior debt obligations and mortgage-backed securities (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts);

(E) The senior debt obligations of Resolution Funding Corporation (RFCO), Financing Corporation (FICO) and Tennessee Valley Authority (TVA);

(3) Obligations of any state, territory or commonwealth of the United States of America or any political subdivision thereof or any agency or department of the foregoing, that are rated, at the time of purchase, in the highest rating category (without regard to any refinement or gradation of such rating category by a plus or minus sign or a numeral) by two national statistical rating organizations.

(4) United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank. Investments under this subdivision shall be rated "AA" or better by a national statistical rating organization.

(5) Any repurchase agreement: (A) with (i) any bank or trust company organized under the laws of any state of the United States or any national banking association (including the Collateral Agent), or a state-licensed branch of a foreign bank, having a minimum permanent capital of one hundred million dollars (\$100,000,000) and having short-term debt which is rated, at the time of the purchase, by two national statistical rating organizations in one of the three highest short-term rating categories; or (ii) any government bond dealer reporting to, trading with, and recognized as a primary dealer by, the Federal Reserve Bank of New York; and (B) which agreement is secured by any one or more of the securities and obligations described in clause (1) or (2) above and having maturities equal to or less than 5 years from the date of delivery, which shall have a market value (valued at least monthly) not less than 102% of the principal amount of such investment and shall be placed with the Collateral Agent or other fiduciary, as custodian for the Collateral Agent, by the bank, trust company, national banking association or bond dealer executing such repurchase agreement. The entity executing each such repurchase agreement required to be so secured shall furnish the Collateral Agent with an undertaking satisfactory to the Collateral Agent that the aggregate market value of all such obligations securing each such repurchase agreement (as valued at least

monthly) will be an amount equal to 102% the principal amount of such repurchase agreement, and the Collateral Agent shall be entitled to rely on each such undertaking.

EXHIBIT B

Fee Schedule



U.S. Bank Customer Confidential

**Schedule of Fees for Services as
Collateral Agent
CITY OF SAN DIEGO
SAN DIEGO FACILITIES AND EQUIPMENT LEASING CORPORATION**

CTS01010A	Acceptance Fee The acceptance fee includes the administrative review of documents, initial set-up of the account, and other reasonably required services up to and including the closing. This is a one-time, non-refundable fee, payable at closing.	\$1,000.00
CTS04200	Collateral Agent Annual fee for the standard collateral agent services associated with the administration of the account. Administration fees are payable in advance.	\$2,000.00
CTS10100	Investment Trades - SEI Charge per trade to buy or sell investments, excluding automated sweep transactions. **Automatic sweeping of cash into money market funds is not considered a "trade" for the purposes of this fee. However, applicable fees are disclosed in the "Automatic Money Market Investments" authorization letter or the fund prospectus provided	\$25.00
CTS10880	Disbursement / Draw - SEI Charge per item disbursed. Includes the wire or check fee.	\$25.00
CTS16156B	Legal Expenses Includes fees and expenses of legal counsel as well as the rendering of a standard legal opinion if required. Not to exceed	\$7,500.00
	Direct Out of Pocket Expenses Reimbursement of expenses associated with the performance of our duties, including but not limited to publications, legal counsel after the initial close, travel expenses and filing fees.	At Cost
	Extraordinary Services Extraordinary Services are duties or responsibilities of an unusual nature, including termination, but not provided for in the governing documents or otherwise set forth in this schedule. A reasonable charge will be assessed based on the nature of the services and the responsibility involved. At our option, these charges will be billed at a flat fee or at our hourly rate then in effect.	

Account approval is subject to review and qualification. Fees are subject to change at our discretion and upon written notice. Fees paid in advance will not be prorated. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the above fee schedule, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related out-of-pocket expenses will be billed to you directly. Absent your written instructions to sweep or otherwise invest, all sums in your account will remain uninvested and no accrued interest or other compensation will be credited to the account. Payment of fees constitutes acceptance of the terms and conditions set forth.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT:

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a Trust or other legal entity we will ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

August 24, 2018

Revised on September 18, 2018

EXHIBIT C

Form of Counterpart to Collateral Agency, Account and Assignment Agreement

IN WITNESS WHEREOF, the undersigned has caused this Counterpart dated as of [_____, 20__] (this “**Counterpart**”) to the Collateral Agency, Account and Assignment Agreement dated as of [____], 2018 (as the same may be amended, amended and restated, supplemented or otherwise modified from time to time, the “**Agreement**”), to be duly executed and delivered by its duly authorized officer. Upon execution and delivery of this Counterpart to the Borrower and the Collateral Agent and the acknowledgment and acceptance of such Counterpart by the Borrower and the Collateral Agent, the undersigned shall be a [Holder] [Holder Representative] under the Agreement and shall be as fully a party to the Agreement as if such [Holder] [Holder Representative] were an original signatory to the Agreement.

[Name of Holder or Holder Representative]

By_____

Name_____

Title_____

Notice Address:

ACKNOWLEDGED AND ACCEPTED:

U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agent

By_____

Name_____

Title_____

CITY OF SAN DIEGO,
as Borrower

By_____

Name_____

Title_____

FIRST AMENDMENT

Dated as of November 14, 2018

to

AMENDED AND RESTATED
MASTER INSTALLMENT PURCHASE AGREEMENT

Dated as of January 1, 2009

by and between the

CITY OF SAN DIEGO

and the

SAN DIEGO FACILITIES AND EQUIPMENT
LEASING CORPORATION

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**FIRST AMENDMENT
TO AMENDED AND RESTATED
MASTER INSTALLMENT PURCHASE AGREEMENT**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED MASTER INSTALLMENT PURCHASE AGREEMENT (this “**First Amendment**”), dated as of November 14, 2018, is by and between THE CITY OF SAN DIEGO, a municipal corporation organized and existing under a charter duly adopted pursuant to the provisions of the Constitution of the State of California (the “**City**”), and the SAN DIEGO FACILITIES AND EQUIPMENT LEASING CORPORATION, a nonprofit public benefit corporation organized and existing under and by virtue of the laws of the State of California (the “**Corporation**”).

WITNESSETH:

WHEREAS, the City and the Corporation have heretofore entered into an Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2009, a 2009A Supplement to Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2009, a 2009B Supplement to Amended and Restated Master Installment Purchase Agreement, dated as of June 1, 2009, a 2010A Supplement to Amended and Restated Master Installment Purchase Agreement, dated as of June 1, 2010, a 2012A Supplement to Amended and Restated Master Installment Purchase Agreement, dated as of April 1, 2012, a 2016 Supplement to Amended and Restated Master Installment Purchase Agreement, dated as of June 1, 2016, and a 2017 Commercial Paper Supplement to Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2017, (collectively, and as further supplemented and amended, the “**Agreement**”), each by and between the City and the Corporation, pursuant to which the Corporation has agreed to sell certain improvements and additions (comprised of various components, each, a “**Component**”) to the water system of the City (the “**Water System**”) and the City has agreed from time to time to purchase certain Components as specified in certain supplements to the Agreement; and

WHEREAS, the City has determined that it is in its best interests and the best interests of its residents to amend the Agreement and, concurrently with the execution and delivery of this First Amendment, to enter into the Collateral Agency Agreement (as defined herein), to (i) clarify the rights and remedies of Owners of Secured Obligations, (ii) clarify the application of Net System Revenues, and (iii) provide for a Collateral Agent to (a) receive the grant of security in the Net System Revenues, (b) administer the application of Net System Revenues among Owners of Obligations issued or incurred under various Issuing Instruments pursuant to the flow of funds set forth in the Collateral Agency Agreement and (c) enforce remedies following an Event of Default, in each case on behalf of, and for the benefit of, all Owners of Secured Obligations; and

WHEREAS, the Agreement and the rights and obligations of the City and the Corporation thereunder may be amended or supplemented at any time by an amendment thereof or supplement thereto which shall not adversely affect the interests of the Owners of the Installment Payment Obligations and which shall become binding upon execution by the City and the Corporation, without the written consents of any Owner of Installment Payment Obligations or any Credit Provider; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this First

Amendment do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this First Amendment.

NOW THEREFORE, the parties hereto have agreed as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. Capitalized terms used in this First Amendment but not defined herein have the meanings given those terms in the Agreement. As used in this First Amendment, the following additional terms have the following meanings:

Authority

The term “Authority” means the Public Facilities Financing Authority of the City of San Diego, a joint exercise of powers agency established and existing under the laws of the State of California.

Collateral Agency Agreement

The term “Collateral Agency Agreement” means the Collateral Agency, Account and Assignment Agreement dated as of November 14, 2018 among, among others, the City, the Corporation, the Authority, the United States Environmental Protection Agency, the Trustee and the Collateral Agent, as the same may be amended or replaced.

Collateral Agent

The term “Collateral Agent” means U.S. Bank National Association, a national banking association organized under the laws of the United States, in its capacity as Collateral Agent, and any successor Collateral Agent under a Collateral Agency Agreement.

Indenture

The term “Indenture” means the Indenture, dated as of January 1, 2009, as amended and supplemented from time to time, by and between the Authority and the Trustee.

Interest Portion

The term “Interest Portion” means the portion of any Installment Payment specified as interest in any Supplement.

Parity Obligation Interest Funding Date

The term “Parity Obligation Interest Funding Date” means each Parity Obligation Installment Payment Date on which the Interest Portion is due and payable under the Agreement as well as each date on which interest is due and payable on any Parity Obligation under any other Issuing Instrument.

Parity Obligation Principal Funding Date

The term “Parity Obligation Principal Funding Date” means each Parity Obligation Installment Payment Date on which the Principal Portion is due and payable under the Agreement as well as each date on which principal or mandatory sinking fund redemptions are due and payable on any Parity Obligation under any other Issuing Instrument.

Parity Obligations Interest Account

The term “Parity Obligations Interest Account” means the account of that name established and maintained by the Collateral Agent under the Collateral Agency Agreement.

Parity Obligations Payment Fund

The term “Parity Obligations Payment Fund” means the fund of that name established and maintained by the Collateral Agent under the Collateral Agency Agreement.

Parity Obligations Principal Account

The term “Parity Obligations Principal Account” means the account of that name established and maintained by the Collateral Agent under the Collateral Agency Agreement.

Principal Portion

The term “Principal Portion” means the portion of any Installment Payment specified as principal in any Supplement.

Secured Obligations

The term “Secured Obligations” means Parity Obligations and/or Subordinated Obligations, as the context requires.

SRF Loan Agreements

The term “SRF Loan Agreements” means Obligations evidenced by agreements by and between the City and the California State Water Resources Control Board or the California State Department of Public Health or any successor lender under any State Revolving Fund loan.

Subordinated Obligation Interest Funding Date

The term “Subordinated Obligation Interest Funding Date” means each Subordinated Obligation Installment Payment Date on which the Interest Portion is due and payable under the Agreement as well as each date on which interest is due and payable on any Subordinated Obligation under any other Issuing Instrument.

Subordinated Obligation Principal Funding Date

The term “Subordinated Obligation Principal Funding Date” means each Subordinated Obligation Installment Payment Date on which the Principal Portion is due and payable under the

Agreement as well as each date on which principal or mandatory sinking fund redemptions are due and payable on any Subordinated Obligation under any other Issuing Instrument.

Subordinated Obligations Interest Account

The term “Subordinated Obligations Interest Account” means the account of that name established and maintained by the Collateral Agent under the Collateral Agency Agreement.

Subordinated Obligations Payment Fund

The term “Subordinated Obligations Payment Fund” means the fund of that name established and maintained by the Collateral Agent under the Collateral Agency Agreement.

Subordinated Obligations Principal Account

The term “Subordinated Obligations Principal Account” means the account of that name established and maintained by the Collateral Agent under the Collateral Agency Agreement.

Trustee

The term “Trustee” means U.S. Bank, National Association, as successor trustee under the Indenture.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01 City Representations and Warranties. The City hereby represents and warrants that each of the following is true and correct:

(a) The City is a municipal corporation organized and existing under the Charter, which was duly adopted pursuant to the provisions of the Constitution of the State of California.

(b) The City has full legal right, power, and authority to enter into this First Amendment and perform its obligations hereunder, to carry out and consummate all transactions contemplated by this First Amendment, and the City has complied with the provisions of the Law in all matters relating to such transactions.

(c) By proper action, the City has duly authorized the execution, delivery, and performance of this First Amendment.

(d) The execution and delivery of this First Amendment and the consummation of the transactions herein contemplated do not and will not (i) violate any provision of any law or any order of any court or other agency of government; (ii) be in conflict with, result in a material breach of, or constitute a default (with due notice or the passage of time or both) under any provision of any indenture, material agreement, or other instrument to which the City is now a party or by which it or any of its material properties or assets is bound; or (iii) result in the creation or imposition of any prohibited lien, charge, or encumbrance of any nature whatsoever upon any of the properties or assets of the City.

Section 2.02 Corporation Representations and Warranties. The Corporation hereby represents and warrants that each of the following is true and correct:

(a) The Corporation is duly organized and existing under the laws of the State of California.

(b) The Corporation has full legal right, power, and authority to enter into this First Amendment and to carry out and consummate all transactions contemplated by this First Amendment.

(c) By proper action, the Corporation has duly authorized the execution, delivery, and due performance of this First Amendment.

(d) The execution and delivery of this First Amendment and the consummation of the transactions herein contemplated do not and will not (i) violate any provision of any law or any order of any court or other agency of government; (ii) be in conflict with, result in a material breach of, or constitute a default (with due notice or the passage of time or both) under any provision of any indenture, material agreement, or other instrument to which the Corporation is now a party or by which it or any of its material properties or assets is bound; or (iii) result in the creation or imposition of any prohibited lien, charge, or encumbrance of any nature whatsoever upon any of the properties or assets of the Corporation.

ARTICLE III

COLLATERAL AGENT

Section 3.01 Role of Collateral Agent – Collection and Payment. As described further in the Collateral Agency Agreement, the Collateral Agent shall serve as agent of the Trustee and all Owners of Secured Obligations for purposes of receiving payments of Net System Revenues from the City and making payments on Obligations from Net System Revenues. The obligations of the City to make payments on Secured Obligations, including Installment Payments, to the Corporation, the Authority, the Trustee or any trustee or Owner pursuant to any Issuing Instrument shall be satisfied to the extent of payments made by the Collateral Agent to such entity pursuant to the terms of the Collateral Agency Agreement. In order to effect such payments, the City agrees to henceforth make payments to the Collateral Agent as provided in Section 5.02 of the Agreement (as amended by this First Amendment). Pursuant to the Collateral Agency Agreement, the Collateral Agent has agreed to allocate Net System Revenues received by it to the Owners of Obligations. Any Installment Payments or other payments on Obligations received by the Corporation shall be received in trust for the benefit of the Collateral Agent and the Corporation hereby agrees to promptly transfer any such amounts received by it to the Collateral Agent.

Section 3.02 Role of Collateral Agent – Enforcement. As described further in the Collateral Agency Agreement, (i) the Collateral Agent shall have the right to exercise all of the rights and remedies described in Article VIII of the Agreement as inuring to the Corporation, on behalf of and for the benefit of all Owners of Secured Obligations and any trustee on their behalf, including the Trustee, under this Agreement, the Indenture or any other Issuing Instrument and (ii) notwithstanding anything to the contrary set forth in the Agreement, the Collateral Agency Agreement or any other Issuing Instrument, from and after the date of this First Amendment, the Corporation shall not have any rights, pursuant to the Agreement, the Collateral Agency Agreement or any other Issuing

Instrument, (a) as a grantee of a pledge of Net System Revenues, (b) to accelerate or otherwise declare any Obligations immediately due and payable, (c) to exercise any remedies by or on behalf of the Owners of any Obligations or otherwise with respect to the Net System Revenues following an Event of Default or (d) to receive and/or apply any Net System Revenues to the payment of any Obligations following an Event of Default, and any provisions purporting to provide such rights to the Corporation shall be null and void.

Section 3.03 No Nullification of Assignments. Nothing herein shall nullify or adversely affect any past, present or future assignment or pledge of the rights of the Corporation under this Agreement to the Authority or to the Trustee.

ARTICLE IV

AMENDMENTS TO THE AGREEMENT

Section 4.01 Amendment of Section 1.01 of the Agreement.

(a) Section 1.01 of the Agreement is hereby amended by adding, in the appropriate alphabetical order, definitions for the following additional terms in the form set forth in Section 1.01 of this First Amendment: Authority; Collateral Agency Agreement; Collateral Agent; Interest Portion; Parity Obligation Interest Funding Date; Parity Obligation Principal Funding Date; Parity Obligations Interest Account; Parity Obligations Payment Fund; Parity Obligations Principal Account; Principal Portion; Secured Obligations; SRF Loan Agreements; Subordinated Obligation Interest Funding Date; Subordinated Obligation Principal Funding Date; Subordinated Obligations Interest Account; Subordinated Obligations Payment Fund; and Subordinated Obligations Principal Account.

(b) Section 1.01 of the Agreement is hereby amended by replacing the definition of “Installment Payments” with the following definition:

Installment Payments

The term “Installment Payments” means the Installment Payments scheduled to be paid by the City under and pursuant to this Installment Purchase Agreement and any supplement hereto as well as any amounts payable by the City on any Obligations under and pursuant to any Issuing Instrument.

(c) Section 1.01 of the Agreement is hereby amended by replacing the definition of “Parity Obligations” with the following definition:

Parity Obligations

The term “Parity Obligations” means Obligations the payment of which is secured by a first priority lien on and pledge of Net System Revenues pursuant to Section 5.01(a) of this Installment Purchase Agreement and Section 4 of the Collateral Agency Agreement.

(d) Section 1.01 of the Agreement is hereby amended by replacing the definition of “Subordinated Obligations” with the following definition:

Subordinated Obligations

The term “Subordinated Obligations” means Obligations the payment of which is secured by a second priority lien on and pledge of Net System Revenues that is junior and subordinate to the lien on and pledge of Net System Revenues securing Parity Obligations pursuant to Section 5.01(a) of this Installment Purchase Agreement and Section 4 of the Collateral Agency Agreement.

Section 4.02 Amendment of Section 5.01 of the Agreement. Section 5.01 of the Agreement is hereby amended in its entirety to read as follows.

SECTION 5.01. Commitment of the Net System Revenues. (a) All Parity Obligations, including Parity Installment Payment Obligations, shall be secured by a first priority lien on and pledge of Net System Revenues. The City does hereby grant to the Collateral Agent, for the benefit of the holders of Parity Obligations, a first priority lien on and pledge of Net System Revenues to secure Parity Obligations. All Parity Obligations shall be of equal rank with each other without preference, priority or distinction of any Parity Obligations over any other Parity Obligations; provided that a Parity Obligation that by its terms under certain circumstances can require the full amount of the Parity Obligation to become payable in installments over not less than five years from the occurrence of the triggering event shall not be deemed to create any impermissible preference, priority or distinction as to lien or otherwise of such Parity Obligation over any other Parity Obligation.

(b) All Subordinated Obligations, including Subordinated Installment Payment Obligations, shall be secured by a second priority lien on and pledge of Net System Revenues that is junior and subordinate to the lien on and pledge of Net System Revenues securing Parity Obligations. The City does hereby grant to the Collateral Agent, for the benefit of the holders of Subordinated Obligations, a second priority lien on and pledge of Net System Revenues to secure Subordinated Obligations. All Subordinated Obligations shall be of equal rank with each other without preference, priority or distinction of any Subordinated Obligations over any other Subordinated Obligations; provided that a Subordinated Obligation that by its terms under certain circumstances can require the full amount of the Subordinated Obligation to become payable in installments over not less than five years from the triggering event shall not be deemed to create any impermissible preference, priority or distinction as to lien or otherwise of such Subordinated Obligation over any other Subordinated Obligation; and provided further that a Subordinated Obligation that by its terms under certain circumstances must be treated as, or becomes, a Parity Obligation shall not be deemed to create any impermissible preference, priority or distinction as to lien or otherwise of such Subordinated Obligation over any other Subordinated Obligation.

(c) The City hereby represents and states that it has not granted any lien or charge on any of the Net System Revenues except as provided herein, in the Collateral Agency Agreement and in the SRF Loan Agreements; provided, however, that out of Net System Revenues there may be apportioned such sums for such purposes as are expressly permitted by this Article V.

(d) Nothing contained herein shall limit the ability of the City to grant liens on and pledges of the Net System Revenues that are subordinate to the liens on

and pledges of Net System Revenues for the benefit of Parity Obligations and Subordinated Obligations contained herein.

Section 4.03 Amendment of Section 5.02 of the Agreement. Section 5.02 of the Agreement is hereby amended in its entirety to read as follows.

SECTION 5.02. Allocation of System Revenues. (a) In order to carry out and effectuate the commitment and pledge contained in Section 5.01, the City agrees and covenants that all System Revenues shall be received by the City in trust and shall be deposited when and as received in the Water Utility Fund, which fund the City agrees and covenants to maintain so long as any Obligations remain unpaid, and all moneys in the Water Utility Fund shall be so held in trust and applied and used solely as provided herein in the amounts, at the times and only for the purposes specified below and in the following order of priority; provided that no amount shall be transferred on any date pursuant to any clause below until amounts sufficient for all the purposes specified under the prior clauses shall have been transferred or set aside; and provided further that in the event there are insufficient Net System Revenues to make all of the payments contemplated in any one clause below, then said transfers, deposits and payments directed by such clause shall be made as nearly as practicable pro rata, based upon the respective unpaid amounts of the Obligations addressed by such clause:

First, the City shall pay from the Water Utility Fund directly or as otherwise required all Maintenance and Operation Costs of the Water System;

Second, on each Parity Obligation Interest Funding Date and on each other date on which the following amounts shall be due and payable, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in the Parity Obligations Interest Account of the Parity Obligations Payment Fund, the sum of (A) an amount equal to the interest due and payable on all Parity Obligations; plus (B) an amount equal to any continuing shortfall in transfers required to have been made to the Parity Obligations Interest Account on any preceding Parity Obligation Interest Funding Date;

Third, on each Parity Obligation Principal Funding Date and on each other date on which the following amounts shall be due and payable, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in the Parity Obligations Principal Account of the Parity Obligations Payment Fund, the sum of (A) an amount equal to the principal and mandatory sinking fund redemptions due and payable on all Parity Obligations; plus (B) an amount equal to any continuing shortfall in transfers required to have been made to the Parity Obligations Principal Account on any preceding Parity Obligation Principal Funding Date;

Fourth, on each Parity Obligation Interest Funding Date, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in any Parity Obligations Reserve Account (if any) the amount necessary so that the balance therein equals the applicable Parity Obligations Reserve Requirement; provided that in the event of any draw on a Reserve Fund Credit

Facility held in any Parity Obligations Reserve Account, there shall be deemed a deficiency in such Parity Obligations Reserve Account until the amount of the Reserve Fund Credit Facility is restored to its pre-draw amount;

Fifth, on each Subordinated Obligation Interest Funding Date and on each other date on which the following amounts shall be due and payable, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in the Subordinated Obligations Interest Account of the Subordinated Obligations Payment Fund, the sum of (A) an amount equal to the interest due and payable on all Subordinated Obligations; plus (B) an amount equal to any continuing shortfall in transfers required to have been made to the Subordinated Obligations Interest Account on any preceding Subordinated Obligation Interest Funding Date;

Sixth, on each Subordinated Obligation Principal Funding Date and on each other date on which the following amounts shall be due and payable, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in the Subordinated Obligations Principal Account of the Subordinated Obligations Payment Fund, the sum of (A) an amount equal to the principal and mandatory sinking fund redemptions due and payable on all Subordinated Obligations; plus (B) an amount equal to any continuing shortfall in transfers required to have been made to the Subordinated Obligations Principal Account on any preceding Funding Date; and

Seventh, on each Subordinated Obligation Interest Funding Date, the City shall transfer Net System Revenues from the Water Utility Fund to the Collateral Agent, for deposit in any Subordinated Obligations Reserve Account (if any) the amount necessary so that the balance therein equals the applicable Subordinated Obligations Reserve Requirement; provided that in the event of any draw on a Reserve Fund Credit Facility held in any Subordinated Obligations Reserve Account, there shall be deemed a deficiency in such Subordinated Obligations Reserve Account until the amount of the Reserve Fund Credit Facility is restored to its pre-draw amount.

(b) After the transfers, deposits and payments contemplated by subsection (a) above have been made, any amounts thereafter remaining in the Water Utility Fund may be used for any lawful purpose of the Water System.

Section 4.04 Amendment of Article VIII of the Agreement. Article VIII of the Agreement is hereby amended by adding a new Section 8.06 at the end of such Article as set forth below:

SECTION 8.06. Assignment by Corporation. The Corporation irrevocably and absolutely assigns, transfers and conveys to the Collateral Agent and any successor thereto all of the rights, privileges, duties and obligations of the Corporation under this Article VIII. So long as a Collateral Agency Agreement is in effect, all references to the Corporation in this Article VIII shall mean the Collateral Agent.

ARTICLE V

MISCELLANEOUS

Section 5.01 Successor Is Deemed Included in all References to Predecessor. Except as otherwise provided herein, whenever either the City, the Corporation, the Authority, the Trustee or the Collateral Agent is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the City, the Corporation, the Authority, the Trustee or the Collateral Agent and all agreements and covenants required hereby to be performed by or on behalf of the City, the Corporation, the Authority, the Trustee or the Collateral Agent shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 5.02 Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to “Articles,” “Sections” and other subdivisions or clauses are to the corresponding Articles, Sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith” and other words of similar import refer to the Agreement as a whole and not to any particular Article, Section, subdivision or clause hereof.


Section 5.03 California Law. This First Amendment shall be construed and governed in accordance with the laws of the State of California.

Section 5.04 Effective Date. This First Amendment shall become effective upon its execution and delivery by the City and the Corporation.

Section 5.05 Execution in Counterparts. This First Amendment may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, this First Amendment has been executed by the City and the Corporation as of the year and date first above written.


THE CITY OF SAN DIEGO

By: 

Rolando Charvel
Chief Financial Officer

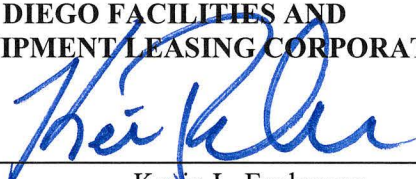
APPROVED AS TO FORM:

MARA W. ELLIOTT, City Attorney

By: 

Bret A. Bartolotta
Deputy City Attorney

**SAN DIEGO FACILITIES AND
EQUIPMENT LEASING CORPORATION**

By: 

Kevin L. Faulconer
President

[Signature Page – San Diego Water – First Amendment to Amended and Restated MIPA]